BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: June 18, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following cases have been finalized and the Board of Appeals is closing the copy of the appeal case files and returning the file and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
CBA-92-202	***B-92-255-15***	MICHAEL E.L. HERRMAN	407 ARMSTRONG ROA
CBA-92-177	***CRG DECISION***	DANIEL MILLS SUBDIVISION	E/S PLEASANT HILL ROAD 1500' S OF I-795
CBA-91-174	***TAX NO.: 21-00-004831***	WILLIAM R. KARLL	NE/S NORTH POINT ROAD, CHESAPEAKE & WILLOW AVENUES, LOTS 4,5,15,16,17 AND 21
CBA-91-166	***PERMIT #B037106***	STEEL TOWN RULES	2401 OLD NOTH POINT ROAD
CBA-91-164	***UNKNOWN***	NEW FORGE BUSINESS PARK	NEW FORGE BUSINESS PARK
91-324-SPHXA	***91-324-SPHXA***	TOWSON TOWN CENTER ASSOC.	831 DULANEY VALLEY ROAD
91-66-SPH	***91-66-SPH***	NEWLIFE GROUP, INC	SE PAWNEE ROAD, E O BALLARD AVENUE (VILLAGE OF PAWNEE, SECTION III)
88-107-SPHA	***88-107-SPHA***	CHARLES N. ANDERSON, JR.	2434 HOLLY NECK ROAD
CBA-92-201	***PERMIT NO.: B149140***	ORVILLE JONES (HIGH'S OF BALTIMORE, INC.)	13523 LONG GREEN PIKE
CBA-93-111	***PERMIT NO.: B138722***	ORVILLE JONES (HIGH'S OF BALTIMORE, INC.)	13523 LONG GREEN PIKE

Attachment: SUBJECT FILE(S) ATTACHED

IN THE MATTER OF THE THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NW/COR HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	CASE NO. 88-107-SPHA
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

ORDER OF DISMISSAL

This matter comes before this Board on appeal from a decision of the Zoning Commissioner dated October 23, 1990 in which the Petitions for Special Hearing and Variance were granted with restrictions.

WHEREAS, the Board has been reviewing its docket with reference to inactive cases with the intent to dismiss and close as many of these cases as possible; and

WHEREAS, the subject matter has been held on the Board's docket since February 23, 2001, and no further action has occurred since that date;

IT IS HEREBY ORDERED this 18th day of April, 2002 by the County Board of Appeals of Baltimore County that the above-referenced Petitions in Case No. 88-107-SPHA be and the same are hereby **DISMISSED FOR LACK OF PROSECUTION**, and that any and all relief granted therein is rendered **null and void.**

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Chairman

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

April 18, 2002

Mr. Charles N. Anderson, Jr.
2904 Mountain Road
Pasadena, MD 21122

RE: *In the Matter of: Charles N. Anderson, Jr.*
Case No. 88-107-SPHA /Order of Dismissal

Dear Mr. Anderson:

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

Very truly yours,

Kathleen C. Bianco/tks

Kathleen C. Bianco
Administrator

Enclosure

c: Rena Steinzor, Esquire
Director of Environmental Law Clinic, U of M
Eric J. and Antonia M. Arciaga
Office of People's Counsel
Pat Keller, Director /Planning
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

Printed with Soybean Ink on Recycled Paper

CHARLES N. ANDERSON, JR. 88-107-SPHA

2/28/95 - Per K. Milton /ZADM -- Bill Bafitis to notify the CBA of intentions to withdraw /abandon this case (submitting plan under new regulations in ZADM). 410-391-2336 Awaiting return of Circuit Court file.

Inquiry to Circuit Court as to status of case on remand (file required with transcript and exhibits); per John, Supervisor, the Circuit Court mailed out the file and exhibits (believes to Zoning) on 4/28/94 -- file not located. File returned from CSA to Circuit Court in June 1993.

3/29/95 - T/C to Bill Bafitis re latest status of case -- he wants issue to stay before the Board just the way it is until he calls back in a month (Don Rascoe promised the plan would be moved through within a month).

2/13/96 -T/C to J. Gontrum -- L/M to call me. kcb

2/16/96 -Per J. Gontrum - talk with Mr. Bafitis. Placed call to B. Bafitis on 2/20/96 -- to verify and possible letter withdrawing this petition.

2/13/01 – Letter to Counsel – pursuant to review of pending docket, an Order of Dismissal will be issued in this matter 30 days from date of notice (2/13/01), unless a response is received from either party within that time frame. The dismissal may then be deferred at the discretion of the Board.

2/22/01 –Letter from John Gontrum -- he no longer represents Mr. Anderson in this matter.

2/23/01 – Letter to Charles N. Anderson, Jr. – as per original letter of 2/13/01 – to dismiss after 30 days unless response from either party is received at any time within 30 days.

4/16/02 – No further action in this matter to date; Order of Dismissal for lack of prosecution to be issued.

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATAGORY APPEAL

IN THE MATTER OF THE APPLICATION OF
CHARLES N. ANDERSON, JR.
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES
ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF
HOLLY NECK ROAD AND BLATIMORE YACHT CLUB ROAD
(2434 HOLLY NECK ROAD) 15th ELECTION DISTRICT
15TH COUNCILMANIC DISTRICT
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Protestant
REGINA BEASMAN,
VIRGINIA BRINKMAN,
ERIC ARCIAGA,
KENNETH R. JOHNSON and
ROBERT CHRISTOPHER Appellants

CIVIL ASSIGNMENT

ATTORNEYS

Phyllis Cole Friedman
Peter Max Zimmerman 887-2188
People's Counsel, Rm 304, Co Office Bldg, 111 W Chesapeake Ave (4)

Melinda A. Rubin, Scott Burns
Clinical Law Office of the U of MD
510 W Balto St (1) 328-2022

John B. Gontrum
814 Eastern Boulevard (21) 686-8274
(atty for Char. N. Anderson, Jr.)

CV GEN COSTS 914169 M
CV CLK 80.00
B LERY 10.00
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CKCHECK TL 92.00
#99493 0001 R01 T12:47
09/13/91

(1) Sept 14, 1991 - Appellant's Order for Appeal from the Opinion and Order of the Balto Co Bd of Appeals fd.

(2) Sept. 13,1991 - Certificate of Notice, fd.

3) Sept 23, 1991 - Protestant's PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Petition on Appeal fd.

4) Sept 23, 1991 - Appellants' Petition for Appeal fd.

4a) Sep 25, 1991 Petition of Charles N. Anderson, Jr. for Order on Cross Appeal, fd.

5) Sept. 26, 1991 - Certificate of Notice, fd.

6) Oct 7, 1991 People's Counsel for Balto. County in answer to petition on cross appeal, fd.

7) Sep 25, 1991 Petition of Charles N. Anderson, Jr. on Cross Appeal, fd.

(8) Oct. 15, 1991 - Transcript of Record fd.

(9) Oct. 15, 1991 - Notice of Filing of Record fd. Copies Sent.

(10) Oct 17,1991 Answer of Charles N. Anderson, Jr to Petition on Appeal of Regina Beasman,fd.

(11) Oct 17,1991 Answer of Charles N., Anderson to Petition on Appeal of Peoples Counsel for Baltimore County,fd.

CASE NO. 91CV4169

(12) Oct 17,1991 Amended Petition of Charles N. Anderson for Order on Cross Appeal,fd.

13) Oct 18,1991 Answer of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopner to Petition on Cross Appeal,fd.

14)Nov. 1, 1991 Answer of People's Counsel for Balto. Co., fd. (Rec'd-10/28/91)

(15) Nov. 6, 1991 Answer of People's Counsel for Balto. Co. to Amended Petition on Cross Appeal of Charles N. Anderson, fd. (Rec'd 11-8-91)

15A) Nov. 11, 1991 - Appellant's Memorandum of law requesting reversal of Board of Appeals Decision fd.

16) Nov 14, 1991 People's Counsel's Memorandum, fd.

(16A) Nov. 15, 1991 - Stipulation, fd.

(17) Nov. 22, 1991 - Memorandum of Cross Appellants, Charles N. Anderson, Jr., Statement of Case, fd.

(18) Dec. 18,1991 - Stipulation, fd.

(19) Dec. 23, 1991 Stipulation fd.

(20) Dec. 30,1991 - Appellee's CHARLES N. ANDERSON, JR. memorandum, fd.

(21) Jan 16, 1992 Appellants' (Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher) response to Appellee's Memorandum on Cross-appeal and Appellants' Reply Memorandum, fd.

January 21,1992 Hon.Barbara Kerr Howe. Hearing had. Opinion to be filed.

(22) April 6, 1992 - Opinion and Order of Court that the Board's Decision in inconsistent with its own findings of fact, the decision in on its face incorrect as a matter of law, and must, therefore, be REVERSED. The Cross Appeal is DENIED as MOOT, fd. (BKH)

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

01 FEB 22 PM 12:25

February 19, 2001

Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: In the Matter of Charles N. Anderson, Jr. - Petitioner
Case No. 88-107-SPHA/On Remand to the Board

Dear Ms. Bianco:

I am enclosing a copy of a letter that you sent me dated February 13, 2001 regarding the above captioned matter.

Please be advised that I no longer represent Mr. Anderson with regard to the above captioned matter.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh
Enclosure

cc: Charles N. Anderson, Jr. - Petitioner
William Bafitis - Engineer

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

February 13, 2001

John B. Gontrum, Esquire
ROMADKA, GONTRUM & MCLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221

Peter Max Zimmerman, People's Counsel
for Baltimore County
Room 47, Old Courthouse
Towson, MD 21204

RE: In the Matter of Charles N Anderson, Jr. -Petitioner
Case No. 88-107-SPHA /On Remand to the Board

Dear Counsel:

The Board of Appeals has been reviewing its docket, particularly with reference to inactive cases. By this review, the Board intends to dismiss and close as many of these cases as possible.

Pursuant to the above intent, the purpose of this letter is to advise you that an Order of Dismissal for lack of prosecution will be entered in the above-captioned matter after the expiration of 30 days from the date of this Notice. Upon receipt of a request filed at any time before 30 days after date of this Notice, the Board, for good cause, may defer entry of the Order of Dismissal for the period and on the terms it deems proper.

Very truly yours,

Kathleen C. Bianco
Administrator

cc: Rena Steinzor, Esquire
Director of Environmental Law Clinic, U of M
Virginia W. Barnhart, County Attorney

FEB 15 2001

Printed with Soybean Ink
on Recycled Paper

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

706-2022

Writer's No.

April 27, 1994

Baltimore County Board of Appeals
Room 49, Old Courthouse
Toswon, MD 21204

Re: Change of Counsel for Virginia Beasman, et. al.
In the matter of: Charles N. Anderson, Jr. v. People's Counsel of Baltimore County
Court of Special Appeals, No. 1314, Sept. Term 1992
Circuit Court, Baltimore County 91CV4169

To the Board of Appeals:

This letter is to notify you that ~~Scott Burns~~ is no longer with the University of Maryland Environmental Law Clinic and should be replaced as counsel of record for Regina Beasman, et. al. in the above-referenced matter. The new Director of the Environmental Law Clinic is Rena Steinzor; however, as Ms. Steinzor has not yet been admitted to the Bar of Maryland, we ask that you substitute Michael Millemann as counsel of record.

Ms. Steinzor will be the counsel of record as soon as she is admitted to the bar. Until that time, however, we ask that copies of all court-related correspondence be sent to :

Michael Milleman, Esq.
University of Maryland Law Clinic
510 W. Baltimore Street
Baltimore, MD 21201
(410) 706-8340

If you have any questions, please contact Rena Steinzor at (410) 706-0564. Thank you for your assistance.

Sincerely,

Kathleen C. Murphy

Kathleen C. Murphy
Student Attorney*

RECEIVED
COUNTY BOARD OF APPEALS
94 APR 29 PM 1:31

cc: Bob Christopher
Peter Max Zimmerman, People's Counsel for Baltimore County
John Gontrum, Esq.

* Practicing pursuant to Rule 16 of the Maryland Rules Governing Admission to the Bar.

510 West Baltimore Street
Baltimore, Maryland 21201-1786
410 706 8036 TDD ONLY
410 706 5856 FAX

Entrance: 500 West Baltimore Street

Attorneys
Barbara L. Bezdek
Richard C. Boldt
Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Stanley S. Herr
Sherrilyn A. Ifill
Susan P. Leviton
Mary Helen McNeal
Michael A. Millemann
Richard L. North
Joan L. O'Sullivan
Beth Pepper
Rena I. Steinzor
Deborah J. Weimer
Roger C. Wolf
Syd Ford, LCSW-C
Shirley M. Appelt, Administrator

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

RECEIVED
COUNTY BOARD OF APPEALS
93 AUG 12 PM 12:44

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 12, 1993

William T. Hackett, Chairman
County Board of Appeals
Room 49, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Charles N. Anderson, Jr.,
Petitioner - #88-107-SPHA

Dear Chairman Hackett:

This case comes back to the Board upon remand from the Court of Special Appeals of Maryland, and via the Circuit Court for Baltimore County. Under the circumstances, we are requesting a hearing so that there is a proper opportunity to be heard on the next phase of this case.

There are a number of issues to be considered:

1. The Court of Special Appeals remand to the County Board of Appeals for further evaluation of the decision.

2. The impact of Bill 149-92, which involves comprehensive new legislation on the zoning of marinas and boatyards, and comprehensive new regulation. Among other things, the new law restricts stacking to three high. See BCZR 417.7.

3. The Board Opinion in this case dated August 15, 1991 was signed by Chairman Hackett, Mr. Harry Buchheister and Ms. Lynn Moreland. The last-named member is no longer with the Board. The question, therefore, is presented as to whether the Board may proceed with two members, and if not, the consequences of such inability.

All of these matters appear to be relevant upon consideration of the remand, in view of the current status of the law and the composition of the County Board of Appeals.

William T. Hackett, Chairman
County Board of Appeals

August 12, 1993

Additionally, please set this matter in for review at a time convenient to the Board and the parties.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: John B. Gontrum, Esquire
Scott Burns, Esquire
Mr. Robert H. Christopher

PMZ:sh

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATAGORY APPEAL

IN THE MATTER OF THE APPLICATION OF
CHARLES N. ANDERSON, JR.
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES
ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF
HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD
(2434 HOLLY NECK ROAD) 15th ELECTION DISTRICT
15TH COUNCILMANIC DISTRICT
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Protestant
REGINA BEASMAN,
VIRGINIA BRITTMAN,
ERIC ARCIAGA,
KENNETH R. JOHNSON and
ROBERT CHRISTOPHER Appellants

TRANSCRIPT IN BASEMENT
LOCATION: Box 2

CIVIL ASSIGNMENT

ATTORNEYS

Phyllis Cole Friedman
Peter Max Zimmerman 887-2188
People's Counsel, Rm 304, Co Office Bldg, 111 W Chesapeake Ave (4)

Melinda A. Rubin, Scott Burns
Clinical Law Office of the U of MD
510 W Balto St (1) 323-2022

John B. Gontrum
814 Eastern Boulevard (21) 686-8274
(atty for Char. N. Anderson, Jr.)

CV GEN COSTS PAID
CV CLK 80.00
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#99492 DATE

(1) Sept 14, 1991 - Appellant's Order for Appeal from the Opinion and Order of the Balto Co Bd of Appeals fd.

(2) Sept. 13,1991 - Certificate of Notice, fd.

(3) Sept 23, 1991 - Protestant's PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Petition on Appeal fd.

(4) Sept 23, 1991 - Appellants' Petition for Appeal fd.

(4a) Sep 25, 1991 Petition of Charles N. Anderson, Jr. for Order on Cross Appeal, fd.

(5) Sept. 26, 1991 - Certificate of Notice, fd.

(6) Oct 7, 1991 People's Counsel for Balto. County in answer to petition on cross appeal, fd.

(7) Sep 25, 1991 Petition of Charles N. Anderson, Jr. on Cross Appeal, fd.

(8) Oct. 15, 1991 - Transcript of Record fd.

(9) Oct. 15, 1991 - Notice of Filing of Record fd. Copies Sent.

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(11) Oct 17,1991 Answer of Charles N., Anderson to Petition on Appeal of Peoples Counsel for Baltimore County,fd.

Docket 2 Page 1 Case 91 CV 4169

CASE NO. 91CV4169

(12) Oct 17,1991 Amended Petition of Charles N. Anderson for Order on Cross Appeal, fd.

(13) Oct 18,1991 Answer of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher to Petition on Cross Appeal.fd.

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(16) Nov 14, 1991 People's Counsel's Memorandum, fd.

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(18) Dec. 18,1991 - Stipulation, fd.

(19) Dec. 23, 1991 Stipulation fd.

(20) Dec. 30,1991 - Appellee's CHARLES N. ANDERSON, JR. memorandum, fd.

(21) Jan 16, 1992 Appellants'.(Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher) response to Appellee's Memorandum on Cross-appeal and Appellants' Reply Memorandum, fd.

January 21,1992 Hon.Barbara Kerr Howe. Hearing had. Opinion to be filed.

(22) April 6, 1992 - Opinion and Order of Court that the Board's Decision in inconsistent with its own findings of fact, the decision in on its face incorrect as a matter of law, and must, therefore, be REVERSED. The Cross Appeal is DENIED as MOOT, fd. (BKH)

(23) April 13, 1992 - Appellant's Motion to Alter, Amend and/or Revise Judgment fd.

(24) April 22, 1992 - People's Counsel Answer to Motion to Alter, Amend and/or Revise Judgment, fd.

(25) May 4, 1992 Appellant's Memorandum in response to Motion to Alter, Amended and/or revise court's Decision, fd.

June 1, 1992 - Hon. Barbara Kerr Howe. Hearing Had. Motion to Alter, Amend. (P#24) Denied.

(26) June 30, 1992 Appellant's Notice of Appeal to the Court of Special Appeals fd. (6/38)

CV GEN 914169 #
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(27) Aug. 4, 1992 Order of Court from the Court of Special Appeals for case to proceed without a Prehearing Conference fd.(PEA)

(28) Oct. 8, 1992 Order of Court from the Court of Special Appeals of Maryland granting the Motion to extend time; that the record shall be transmitted on or before 10/21/92, fd. (Judge Alan M. Wilner 9/30/92)

OCTOBER 21, 1992 - ORIGINAL RECORD AND PROCEEDINGS SENT TO THE COURT OF SPECIAL APPEALS OF MARYLAND BY CERTIFIED MAIL.

CKCHECK TL 7.00
#30050 C002 R01 T11:35
10/21/92

(29) May 6, 1993 - Order of Court that this case be remanded to the Board of Appeals for Baltimore County for further proceedings, etc, fd (BKH)

Cert'd

(30) June 3, 1993- Original papers and Mandate in the Court of Special appeals fd.
April 23, 1993- Per Curiam filed.
Judgment vacated; case remanded to the Circuit Court for Baltimore County with instructions to remand to the Board of Appeals of Baltimore County for further proceedings consitent with this opinion. One half of costs to be paid by appellant and one half of costs to be paid by appellees.
May 24, 1993: Mandate issued.

True Copy Test
SUZANNE MENSH, Clerk
Per Gloria Brooks
Deputy Clerk

CHARLES N. ANDERSON, JR.
NW/cor Holly Neck & Baltimore Yacht Club Roads (2434 Holly Neck Road)
SPH & VAR

88-107-SPHA
15th Election District
5th Councilmanic District

June 21, 1990	Petitions filed by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr. for a Special Hearing to amend site plan #5191-4, to construct storage racks and RTA determination and for Variances for out-of-water boat storage facility 14' from property line and paving and parking variances.
October 23	Order of the Zoning Commissioner GRANTING Petitions with restrictions.
November 21	Notice of Appeal received from People's Counsel for Baltimore County.
July 31, 1991	Hearing before the Board of Appeals.
August 15	Opinion and Order of the Board GRANTING the Petitions with restrictions.
September 13	Order for Appeal filed in the Circuit Court for Baltimore County by the Office of People's Counsel for Baltimore County and Melinda A. Rubin, Student Attorney and Scott Burns, Esquire on behalf of Regina Beasman, et al, Protestants.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by Melinda A. Rubin, Student Attorney and Scott Burns, Esquire.
September 13	Certificate of Notice sent to interested parties.
September 25	Cross-Appeal filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr.; Petition to accompany appeal also filed.
September 26	Certificate of Notice sent to interested parties.
October 15	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court for Baltimore County.
April 1, 1992	Order of the CCt,BCo REVERSING C.B. of A. (Hon. Barbara K. Howe)
June 30	Notice of Appeal to Court of Special Appeals filed by John B. Gontrum, Esquire on behalf of Petitioner.

April 13, 1993	JE	REMANDED to Circuit Court by CSA for remand to CBA pursuant to Court of Special Appeals Opinion.
May 6	JE	REMANDED to CBA by Circuit Court (Judge Barbara Kerr Howe) for further proceedings consistent with opinion of CSA.



Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221, Attorney for Appellee.



Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

MANDATE

Court of Special Appeals

Maryland Relay Service
1-800-735-2258
TT/VOICE

No. 1314, September Term, 1992

Charles N. Anderson, Jr.
v.
Baltimore County, Maryland et al.

JUDGMENT: April 23, 1993: Per Curiam filed. Judgment vacated; case remanded to the Circuit Court for Baltimore County, with instructions to remand to the Board of Appeals of Baltimore County for further proceedings consistent with this opinion. One-half of costs to be paid by appellant and one-half of costs to be paid by appellees.

May 24, 1993: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
91CV4169

Record.....		50.00
Stenographer Costs.....		100.00
	* Total *	150.00 *

In Court of Special Appeals:

Filing Record on Appeal.....		50.00
Printing Brief for Appellant.....		205.20
Portion of Record Extract--Appellant....		1242.00
	* Total *	1497.20 *
Printing Brief for Appellee.....		75.60
	* Total *	75.60 *

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals this twenty-fourth day of May *A.D. 19* 93

Sedie D. Baker

Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

4/23/93 REMANDED to Circuit Court for remand to Board of Appeals pursuant to CSA Opinion.

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1314

September Term, 1992

CHARLES N. ANDERSON, JR.

V.

BALTIMORE COUNTY, MARYLAND, ET AL.

Garrity,
Bloom,
Harrell,

JJ.

Per Curiam

Filed: April 23, 1993

APR 28

This appeal is from an order of the Circuit Court for Baltimore County that reversed a decision of the County Board of Appeals of Baltimore County (the Board) granting a modified special exception amendment and variances to permit less than the required number of parking spaces, the construction of out-of-water boat storage racks closer than 60 feet from the property line, and a gravel surface for the parking area.

Facts

Appellant, Charles N. Anderson, Jr., owns and operat s a marina and boatyard located in the Chesapeake Bay Critical Ar a on Sue Creek in Baltimore County. In 1990, appellant petitioned the Baltimore County Zoning Commission, requesting the granting of several variances and an amendment to an existing special exception, which would allow him to build two additional on-land storage racks and store 176 additional boats.

Appellees appealed the Zoning Commissioner's order granting the variances and the special exception amendment to the County Board of Appeals. A de novo hearing was held, and conflicting testimony regarding the effects of the requests on the local environment and community was presented. Despite finding that the additional boat racks and parking spaces as proposed by the amended site plan "would cause overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public ... [and] would further stress the Critical Area and Sue Creek," the Board granted a modified special exception amendment and variances for the proposed

project. Specifically, the Board allowed three racks holding 280 boats, rather than four racks holding 384 boats, and limited parking to 125, rather than 147 cars.

The case was then appealed to the Circuit Court for Baltimore County. The court (Howe, J.) determined that the "Board's decision is inconsistent with its own findings of fact, the decision is on its face incorrect as a matter of law, and must, therefore, be reversed." Subsequently, the court denied appellant's Motion to Alter, Amend and/or Revise Judgment.

We are asked to review the sufficiency of the evidence to support the Board's decision and to determine whether the court erred by refusing to remand for further fact-finding or clarification of the Board's Findings and Order.

Discussion of Law

1. Sufficient Basis for Findings

The standard of review to be applied to decisions from administrative agencies is one where "the court reviewing a final decision of an administrative agency shall determine the legality of the decision and whether there was substantial evidence from the record as a whole to support the decision." Board of Educ., Mont. Co. v. Paynter, 303 Md. 22, 35 (1984). In Bulluck v. Pelham Wood Apts., 283 Md. 505 (1978), Judge Eldridge, speaking for the Court of Appeals, discussed the meaning and application of "substantial evidence." He observed that "substantial evidence" has been defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." The scope of review is limited to

whether a reasoning mind reasonably could have reached the factual conclusion the agency reached. In applying the substantial evidence test, the reviewing court should not substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken. The reviewing court also must review the agency's decision in the light most favorable to the agency, since decisions of administrative agencies are prima facie correct and carry with them the presumption of validity. Id. at 512-13.

At issue is the propriety of the conclusion of the Board of Appeals that the variances and special exception amendment, as proposed, would be detrimental to the public health, safety or general welfare. Despite this finding, the Board appar ntly nevertheless granted the amendment and variance requests, albeit in a modified and unsolicited form. The circuit court, determining that the Board's decision was inconsistent with its own findings of fact and was therefore incorrect as a matter of law, reversed.

The Baltimore County Zoning Regulations set forth the criteria for approving special exceptions:

> Before any Special Exception may be granted, it must appear that the use for which the special exception is requested will not:
>
> a. Be detrimental to the health, safety, or general welfare of the locality involved;
>
> b. Tend to create congestion in roads, streets or alleys therein;
>
> c. Create a potential hazard from fire, panic or other dangers;
>
> d. Tend to overcrowd land and cause undue concentration of population.

Baltimore County Zoning Regulations, § 502.1(a)-(d). Maryland case law similarly provid s that a special exception must be denied if it is inconsistent with the public welfare. Schultz v. Pritts, 291 Md. 1, 12 (1981). These same requirements apply with equal vigor to a request to amend a previously applied special exception.

Appellant contends that the protestants failed to offer expert testimony to rebut any of the conclusions of the County departments that commented on the application as proposed by appellant with respect to the environmental impact, the traffic impact, fire safety, or overcrowding. As there was not, in appellant's opinion, any basis for concluding that the plan was injurious to the health, safety, or general welfare and that therefore the Board of Appeals had no basis for such finding, appellant alleges that the court erred and abused its discretion by not affirming the Board or remanding the case to the Board for clarification.

The Board heard testimony from a number of residents from the surrounding community who had personal knowledge of existing problems in the area and the creek. Appellees presented testimony concerning existing overcrowding of boats in Sue Creek. They also presented evidence suggesting that the affected community had a limited capacity to absorb additional automobile traffic. In addition, nearby residents raised concerns over the potential for fires or explosions due to gas left in boats while being stored on the racks. Finally, the Board heard testimony concerning existing environmental problems

in Sue Creek and the likelihood that 176 additional boats would further degrade water quality.

Based upon this testimony, the Board of Appeals found that:

> the additional boat racks and parking spaces as proposed by Amendment Site Plan 5191-4 would cause overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public. Further, the Board finds and will so order that the construction as depicted on the Amended Site Plan would further stress the Critical Area and Sue Creek (emphasis added).

Each of these findings was supported by the testimony of witnesses who appeared before the Board. There was clearly substantial evidence to support the conclusion that the special exception, as proposed, should be denied.

By deferring to the Board's resolution of adverse impact from the proposed special exception, the court also properly determined that it must accept an agency's resolution of factual disputes. See Comm'r v. Cason, 34 Md. App. 487, 508 (1977). Finally, it was for the Board, rather than the court to determine credibility of the evidence. Id. Because the court appropriately yielded to the Board's determinations in that regard, there was no error.

We hold that the court correctly applied the "substantial evidence" test to the Board's factual findings of adverse impact as to the special exception amendment, as it was proposed. Discerning no error, we affirm in this regard.

2. Refusal to Remand

Although the Board properly denied the special exception amendment as proposed, th Board failed to state a factual basis

upon which it granted the special exception amendment and variances in a modified form. Without such needed foundation in the record, neither the circuit court nor this Court may conduct an appropriate review of the Board's allowance of th modification. Indeed, as expressed in United Steelworkers of America, AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 298 Md. 665 (1984), we may not divine an explicit finding on behalf of the Board although such finding may be quite implicit. Writing on behalf of the Court, Judge Rodowsky observed:

> Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action, the court may not uphold th agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

United Steel Workers, 298 Md. at 679; People's Counsel v. Mockard, 73 Md. App. 340, 348-49 (1987).

Anderson, American Law of Zoning, § 16.41, states succinctly the reasons why administrative agencies should make express findings:

> Given express findings, the court can determine whether the findings are supported by substantial evidence, and whether the findings warrant the decision of the board. If no findings are made, and if the court elects not to remand, its clumsy alternative is to read the record, speculate upon the portions which probably were believed by the board, guess at the conclusions drawn from credited portions, construct a basis for decision, and try to determine whether a decision thus arrived at should be sustained. In the process, the court is required to do much that is assigned to the board, and the latter becomes a

> relatively inefficient instrument for the construction of a record. (Emphasis added.)

Judge M re, writing for this Court in Gough v. Bd. of Zoning Appeals, 21 Md. App. 697, 701 (1974), stated that, where "the court was required 'to speculate as to what facts the Board relied upon in reaching its decision' and to make what amounted to an independent evaluation of the facts," remand to the Board of Appeals may be appropriate.

As a reviewing court, that is precisely the situation presented to us in the matter at bar. Thus, we shall r mand this matter to the Circuit Court for Baltimore County with direction that it remand to the Board of Appeals so that the Board may explain the basis from the existing record evidence for its decision to grant the appellant a modified sp cial exception and variances.

JUDGMENT VACATED; CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE COUNTY, WITH INSTRUCTIONS TO REMAND TO THE BOARD OF APPEALS FOR BALTIMORE COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.
ONE-HALF OF COSTS TO BE PAID BY APPELLANT AND ONE-HALF OF COSTS TO BE PAID BY APPELLEES.

PCF: ___
PMZ: ___

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK RD. AND BALTIMORE YACHT CLUB ROAD	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 91CV4169

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

NOTICE OF APPEAL BY CHARLES N. ANDERSON, JR.

MR. CLERK:

Enter an Appeal to the Court of Special Appeals from the Order entered in this action on June 1, 1992 by Barbara Kerr Howe denying Charles N. Anderson, Jr.'s Motion to Alter, Amend and/or Revise Judgment pursuant to Maryland Rules of Procedures 2-534 and 2-535 and from the Order entered by Barbara Kerr Howe on April 1, 1992 reversing the decision from the Baltimore County Board of Appeals.

John B. Gontrum
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Essex, Maryland 21221
(410) 686-8274
Attorney for Appellant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June, 1992, a copy of the foregoing Notice of Appeal was mailed, postage prepaid to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns,

LAW FIRM
ROMADKA, GONTRUM & McLAUGHLIN, P.A.
ESSEX, MARYLAND

Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201.

John B. Gontrum

LAW FIRM

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
ESSEX, MARYLAND

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF
APPLICATION OF
CHARLES N. ANDERSON, JR.
_____/

CASE NO. 91-CV-4169

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Excerpt - Opinion of the Court)

Monday, June 1, 1992
Towson, Maryland

BEFORE:

THE HONORABLE BARBARA KERR HOWE, Associate Judge

APPEARANCES:

For the Petitioner:

JOHN B. GONTRUM, ESQUIRE

For the Respondent:

PETER MAX ZIMMERMAN, ESQUIRE

Reported by:
Janet A. Brown, R.P.R.
Official Court Reporter
County Courts Building
Towson, Maryland 21204

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

April 27, 1992

Circuit Court for Baltimore County
Office of the Clerk
County Court Building
P.O. Box 6754
Towson, Maryland 21285-6754

RE: In the Matter of the Application of Charles N. Anderson, Jr., Case No. 91CV4169

Dear Sir:

Enclosed for filing in the above referenced case please find Appellants' Memorandum in Response to Appellee's Motion to Alter, Amend, and/or Revise this court's decision.

Thank you for your attention to this matter.

Sincerely,

Kenda Layne
Clinical Law Office of the
University of Maryland
500 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

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Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

4/27/92

IN THE MATTER OF THE	*	IN THE
APPLICATION OF	*	
CHARLES N. ANDERSON, JR.	*	CIRCUIT COURT
FOR A SPECIAL HEARING TO AMEND	*	
A SPECIAL EXCEPTION AND VARIANCES	*	FOR
ON PROPERTY LOCATED ON THE	*	
NORTHWEST CORNER OF HOLLY NECK RD.	*	BALTIMORE COUNTY
AND BALTIMORE YACHT CLUB RD.	*	
	*	Case No. 91CV4169

* *

MEMORANDUM IN RESPONSE TO
MOTION TO ALTER, AMEND, AND/OR REVISE
THIS COURT'S DECISION

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, by their attorneys, submit the following memorandum in response to the motion to alter, amend and/or revise this court's decision submitted by Appellee.

INTRODUCTION

This memorandum responds to the motion to alter, amend and/or revise the decision rendered by the court in this case. On April 1, 1992, this court reversed the Board of Appeals decision which granted, with modifications, a special exception and variance. The court held that the Board of

Appeals decision was inconsistent with the Board's findings of fact and "incorrect as a matter of law." Opinion page 2.

In its decision, the Board of Appeals found that the proposed project will adversely impact the health, safety, and general welfare of the public and further stress the Critical Area and Sue Creek. The Board's findings of fact failed to comport with the legal standards governing the granting of special exceptions and variances. This Court's decision in this case, therefore, was correct.

THE AUTHORITY CITED BY APPELLEE DOES NOT SUPPORT HIS REQUEST FOR REMAND

The authority relied upon by Appellee does not support his request that this case be remanded to the Board of Appeals. Because the weight of authority does not support remand, Appellee's motion should be denied.

Specifically, opposing counsel cites Public Service Commission v Patuxent Valley Conservation League, 300 Md. 200, 477 A.2d 759 (1984), in support of his request that this case be remended so that the Board of Appeals can engage in "further fact finding" in order to "clarify and harmonize" its opinion. But the Patuxent Valley case only provides for remand in cases where an agency has **completely failed** to make findings of fact. *See*, Patuxent Valley, supra, 300 Md. at

215, footnote 6. It does not support remand in cases, like the one at bar, where an agency has made findings of fact but a party seeks to have them **changed**. In the instant case, the Board of Appeals made findings of fact based on the evidence presented below. Those findings did not support the Board's decision and as a consequence this Court properly reversed the decision below.

Moreover, the facts in Patuxent Valley differ significantly from those in the present case. In Patuxent Valley, the Court of Appeals was asked to decide whether agency officials could be required to sit for deposition in an action for judicial review of the agency's decision. 300 Md. at 203. The Court, in dicta, suggested that in cases where additional findings of fact were **necessary**, that remand **was preferable to court ordered depositions** of agency officials. The holding in Patuxent Valley is thus quite narrow, and can not be read in a way that supports Appellee's request.

Similarly, Section 604 of the Baltimore County Charter does not support Appellee's request for remand in this case. That section simply provides that the Circuit Court may modify or reverse a decision of the Board of Appeals, **with or without remand**, if the decision is not in accordance with the law and as justice may require. Baltimore County Code,

Article VI, Section 604. Because the Board of Appeals' ruling in this case was plainly inconsistent with their findings of fact, this Court correctly reversed the decision below. The interests of justice would not be served by an order to remand in this case. To the contrary, a remand in this case would only waste the resources of the parties, the Board, and this Court. Because the decision below was plainly incorrect as a matter of law, reversal rather than remand was the proper remedy. This Court's decision should thus be permitted to stand.

APPELLEES REQUEST THAT THIS CASE BE REMANDED FOR FURTHER FINDINGS OF FACT IS IMPROPER

As stated above, the inconsistency between the Board's decision and its findings of fact is obvious. There is no need to "clarify" this inconsistency, as Appellee requests. Opposing counsel is really asking that this case be remanded for the purpose of allowing the Board to make **new** findings of fact.

However, as this Court implicitly held in its decision, the Board's findings of fact were supported by substantial evidence in the record below. See, Appellants' Memorandum of Law Requesting Reversal of the Baltimore County Board of Appeals Decision, filed herein November 14, 1991, at 4-5, 7-

in Sue Creek and the likelihood that 176 additional boats would further degrade water quality.

Based upon this testimony, the Board of Appeals found that:

> the additional boat racks and parking spaces as proposed by Amendment Site Plan 5191-4 would cause overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public. Further, the Board finds and will so order that the construction as depicted on the Amended Site Plan would further stress the Critical Area and Sue Creek (emphasis added).

Each of these findings was supported by the testimony of witnesses who appeared before the Board. There was clearly substantial evidence to support the conclusion that the special exception, as proposed, should be denied.

By deferring to the Board's resolution of adverse impact from the proposed special exception, the court also properly determined that it must accept an agency's resolution of factual disputes. See Comm'r v. Cason, 34 Md. App. 487, 508 (1977). Finally, it was for the Board, rather than the court to determine credibility of the evidence. Id. Because the court appropriately yielded to the Board's determinations in that regard, there was no error.

We hold that the court correctly applied the "substantial evidence" test to the Board's factual findings of adverse impact as to the special exception amendment, as it was proposed. Discerning no error, we affirm in this regard.

2. Refusal to Remand

Although the Board properly denied the special exception amendment as proposed, th Board failed to state a factual basis

9. The Board heard testimony that included numerous references to overcrowding and congestion of roads, the dangers to swimmers presented by existing boat traffic in Sue Creek, and the high levels of bacteria already found in adjacent waters. Based upon this testimony, the Board found that the proposed project would adversely impact the health, safety, and general welfare of the public and further stress the Critical Area and Sue Creek. Because the findings of fact below were supported by substantial evidence, a remand for new fact finding would not comport with the relevant authority.[1] See, Supervisor of Assessments v Ely, 272 Md. 77, 321 A. 2d 166 (1974). Accordingly, Appellee's motion should be denied.

---

[1] If the Board of Appeals **did** reverse its findings of fact in this case, its decision would be arbitrary, and a violation of the Maryland Administrative Procedures Act. In Montgomery County v Anastasi, 77 Md. App. 126, 549 A.2d 753 (1988), the Court of Special Appeals held that an agency that rendered opposite decisions based on indistinguishable facts had acted in an arbitrary manner. See Anastasi supra at 138-139, See generally, Md [State Govt.] Ann. Code § 10-215(g)(3)(vi).

CONCLUSION

For the above reasons, Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, through their attorneys, request that this court deny the motion to alter, amend, and/or revise the judgment in this case.

Respectfully submitted,



Kenda Layne*



Scott Burns
University of Maryland
Clinical Law Office
500 West Baltimore Street
Baltimore, Maryland 21201
Attorneys for Appellants

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 1992, a copy of the foregoing Memorandum was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; Phyllis Cole Freidman, People's Counsel For Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and John B. Gontrum, Esquire, Romadka, Gontrum, and Hennegan, 814 Eastern Boulevard, Essex, Maryland 21221.

Kenda Layne*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE	*	IN THE
APPLICATION OF	*	
CHARLES N. ANDERSON, JR.	*	CIRCUIT COURT
FOR A SPECIAL HEARING TO AMEND	*	
A SPECIAL EXCEPTION AND VARIANCES	*	FOR
ON PROPERTY LOCATED ON THE	*	
NORTHWEST CORNER OF HOLLY NECK RD.	*	BALTIMORE COUNTY
AND BALTIMORE YACHT CLUB RD.	*	
	*	Case No. 91CV4169

* *

ORDER

This court on this _____ day of _____ in the year 1992, denies the Motion to Alter, Amend, and/or Revise the Judgment submitted by Appellee.

_____

JUDGE

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. 328-2147

January 15, 1992

Circuit Court for Baltimore County
Office of the Clerk
County Court Building
P.O. Box 6754
Towson, Maryland 21285-6754

RE: In the Matter of the Application
of Charles N. Anderson, Jr.,
Case No. 91CV4169

Dear Sir:

Enclosed for filing in the above referenced case please find Appellants' Reply Memorandum and Response to Appellee's Memorandum on Cross Appeal.

Thank you for your attention to this matter.

Sincerely,

Scott Burns

92 JAN 17 P12:30

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

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Richard C. Boldt
Scott Burns
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Jerome E. Deise
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Stanley S. Herr
Homer C. LaRue
Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB RD. (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT; 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 91CV4169

* *

APPELLANTS' REPLY MEMORANDUM
AND RESPONSE TO APPELLEE'S MEMORANDUM
ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, Appellants, by their attorneys, submit the following Reply Memorandum and Response to Appellee's Memorandum on Cross-Appeal.

I. INTRODUCTION

This is an appeal from the decision of the Baltimore County Board of Appeals, granting the Appellee's request for out-of-water boat storage racks at his marina on Sue Creek, a tributary of Middle River. The appellants in this case are neighborhood families who are concerned that the proposed expansion of th marina will exacerbate further the environmental degradation currently plaguing Sue Creek and adversely affect the quality of their community.

Appellants filed a memorandum of law in the instant case on November 14, 1991, requesting reversal of the Board of Appeals decision. In that memorandum appellants argued that the Board's decision was contrary to its own findings of fact, citing People's Counsel v. Mockard, 73 Md. App. 340, 349, 533 A. 2d 1344 (1987). In addition, appellants argued that the decision below

failed to comport with the standards governing the granting of special exceptions and variances.

In addition to responding to appellants' memorandum, Charles N. Anderson, owner of the parcel of land that is the subject of this dispute, has filed a cross-appeal arguing that Board erred in imposing limits on the number of new boat racks and parking spaces requested for appellee's marina. In both pleadings, appellee essentially contends that: (1) the Board's findings that the proposed marina expansion would "adversely impact the health, safety and general welfare of the public" (Opinion at 7-8) and "further stress the Critical Area and Sue Creek" (Opinion at 8) are not supported by substantial evidence in the record, and (2) that the Board's decision to limit the scope of Appellee's proposed expansion was similarly unsupported by substantial evidence. For the reasons set forth below neither of these arguments has merit. In addition, for the reasons set forth in Appellants' memorandum of November 14, 1991, which Appellants incorporate by reference herein, the decision below is unsupported by the Board's own findings of fact and fails to comport with the legal standards governing the granting of special exceptions and variances. For these reasons it should be reversed.

II. ARGUMENT

A. THE BOARD'S FINDINGS THAT THE PROPOSED PROJECT WILL ADVERSELY IMPACT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PUBLIC, AND FURTHER STRESS THE CRITICAL AREA AND SUE CREEK, ARE SUPPORTED BY SUBSTANTIAL EVIDENCE

After reviewing the testimony and evidence offered below, the Board of Appeals found that the proposed project would adversely affect the health, safety, and general welfare of the public and further stress the critical area and Sue Creek. Opinion at 8. These factual findings are amply supported by the testimony of witnesses who appeared before the Board. See, Appellants' Memorandum of Law Requesting Reversal of the BAltimore County Board of Appeals' Decision, filed herein November 14, 1991, at 4-5, 7-9. This testimony included numerous references to the existing overcrowding and congestion of roads, the danger to swimmers presented by existing boat traffic on Sue Creek, and to the high levels of bacteria already found in Sue Creek. It is hardly surprising that the Board found that these already problematic conditions would be further exacerbated by Appellee's proposed project. An agency's factual findings must be upheld when there exists "such relevant evidence as a reasonable mind might exist as adequate to support a conclusion." Bulluck v. Belhane Wood Apartments, 283 Md. 505, 390 A. 2d 1119 (1978). Appellants submit that the Board's factual findings regarding the adverse effect of the proposed project on the local community and environment are supported by substantial evidence and, as a consequence, must be upheld.

B. THE DECISION OF THE BOARD OF APPEALS TO GRANT THE SPECIAL EXCEPTION AND VARIANCES WAS CONTRARY TO ITS OWN FINDINGS OF FACT.

As discussed above, Appellants do not take issue with the

factual determinations of the Board of Appeals. We believ the Board's findings that the proposed project would harm the interests of the surrounding community and adversely affect Su Creek are correct.

However, as discussed in our earlier memorandum, we believe the Board committed clear error in applying the relevant law to the facts of this case. As the Court of Special Appeals noted in People's Counsel v. Mockard, supra, a reviewing court may not uphold an "agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency." In the instant case the Board of Appeals granted the requested special exception and variance **despite** finding that the proposed marina expansion would cause overcrowding, further stress Sue Creek, and adversely affect the public's health and safety.

We believe that, given the Board's findings of fact, the proposed project fails as a matter of law to meet the requirements governing the granting of special exceptions and variances in Baltimore County. A special exception may not be granted if it "is detrimental to the health, safety or general welfare." Baltimore County Zoning Regulations, Section 502.1, See, Levy et al v. Seven Slade, Inc., 234 Md. 145, 198 A. 2d 267 (1964). Similarly, a variance may not be granted in this case if it would interfere with the public safety and welfare. See, McLean v. Soley, 270 Md. 208, 310 A. 2d 783 (1973). Having specifically found that Appellee's proposed project would adversely impact the public welfare, the Board was bound as a matter of law to deny the requested special exception and

variance. See, Levy, supra, Mclean, supra, See, generally, Appellants' Memorandum of Law Requesting Reversal of the Baltimore County Board of Appeals' Decision, filed herein November 14, 1991, at 3-10.

C. STANDARD OF REVIEW

The standard of review to be applied in reviewing the Board's decision is set forth in the Section 10-215 of the Maryland Administrative Procedure Act, MD [STATE GOV'T] ANN CODE § 10-215. That provision requires the circuit court to "reverse or modify the decision if any substantial right of the of the petitioner may have been prejudiced because a finding, conclusion or decision of the agency . . . . (iv) is affected by any ... error of law, or ... (vi) is arbitrary or capricious." MD [STATE GOV'T] ANN CODE §10-215(g) (1984). For the reasons set forth above, and in Appellants' earlier memorandum, the decision below must be reversed because of its inconsistency with the Board of Appeal's own findings of fact and the law governing special exceptions and variances in Baltimore County.

Respectfully submitted,

Melinda A. Rubin*

Kenda Layne*

Scott Burns
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21202
(410) 328 - 2022

upon which it granted the special exception amendment and variances in a modified form. Without such needed foundation in the record, neither the circuit court nor this Court may conduct an appropriate review of the Board's allowance of th modification. Indeed, as expressed in United Steelworkers of America, AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 298 Md. 665 (1984), we may not divine an explicit finding on behalf of the Board although such finding may be quite implicit. Writing on behalf of the Court, Judge Rodowsky observed:

> Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action, the court may not uphold th agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

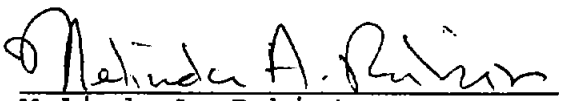
United Steel Workers, 298 Md. at 679; People's Counsel v. Mockard, 73 Md. App. 340, 348-49 (1987).

Anderson, American Law of Zoning, § 16.41, states succinctly the reasons why administrative agencies should make express findings:

> Given express findings, the court can determine whether the findings are supported by substantial evidence, and whether the findings warrant the decision of the board. If no findings are made, and if the court elects not to remand, its clumsy alternative is to read the record, speculate upon the portions which probably were believed by the board, guess at the conclusions drawn from credited portions, construct a basis for decision, and try to determine whether a decision thus arrived at should be sustained. In the process, the court is required to do much that is assigned to the board, and the latter becomes a

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 1992, a copy of this Memorandum was mailed, postage prepaid, to the Administrative Secretary, County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; and John B. Gontrum, Attorney for Appellee, 814 Eastern Blvd., Baltimore, MD 21221.



Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTH-WEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91-CV4169

** **

STIPULATION

IT IS HEREBY agreed by JOHN B. GONTRUM, Attorney for Appellees, that the time allowed to file the answer to Memorandum of Cross-Appellants, Charles N. Anderson, Jr. pursuant to Maryland Rule B12 is extended to Wednesday, January 15, 1992.

Attorneys for Appellants

Melinda A. Rubin*

Kenda Layne*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

91 DEC 20 AM 11:44

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of December, 1991, a copy of this Stipulation was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; Phyllis Cole Friedman, People's Counsel For Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, 814 Eastern Boulevard, Essex, Maryland 21221.

Melinda Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB RD. (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT; 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 91CV4169

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

MEMORANDUM OF CROSS-APPELLANTS, CHARLES N. ANDERSON, JR.

STATEMENT OF THE CASE

The subject case commenced on May 7, 1987, with the filing by James Eurice, a predecessor in title to Charles Anderson, the subject property of a Petition for Special Hearing to amend zoning case No. 5191-x to allow construction of a new building and to determine parking requirements and of a Petition for Zoning Variance to permit setbacks of 34 and 58 feet in lieu of the required 50 and 75 feet respectively for the building and to permit stone paving in lieu of the required durable and dust-free surface as interpreted by zoning policy. After review by County agencies for critical area comments the petitions were amended and filed in September, 1989 to reflect no building but racks for boat storage and in lieu of the previous setback variances a variance of 14 feet in lieu of the required 60 feet for boat storage and to allow parking of 147 parking spaces. Additional amendments were required by the Zoning Commissioner to reflect in water boundary lines from adjacent properties.

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The case was heard on September 13, 1990, and an Order was issued by the Zoning Commissioner on October 23, 1990 granting the requested relief. An appeal was taken by People's Counsel for Baltimore County to the County Board of Appeals of Baltimore County (hereinafter referred to as the "Board"), where the case was tried de novo on July 31, 1991. The Board issued its Opinion and Order on August 15, 1991, granting Charles Anderson, Cross-Appellant, (hereinafter referred to as "Petitioner") three (3) of the four (4) racks requested and the requested zoning variances although limiting parking to 125 spaces. From that order appeals were taken by several Protestants, People's Counsel, and by Petitioner in a Cross-Appeal to the Circuit Court for Baltimore County.

STATEMENT OF FACTS

The property subject to these proceedings lies in the eastern part of Baltimore County in an area known as Back River Neck Peninsula at the intersection of Holly Neck Road and Baltimore Yacht Club Road. It consists of approximately five (5) acres. The property is zoned R.C. 5 and B.L. and is considered suitable for limited development under the Chesapeake Bay critical area program adopted by Baltimore County and approved by the State of Maryland. It contains waterfront on Sue Creek, a tributary of Middle River.

In 1961 Charles Januska, a predecessor in title to Mr. Anderson, filed for a special exception for a marina and

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boatyard. It was granted in Case No. 5191-X, by order dated August 25, 1961. A copy of the approved site plan was filed as Petitioner's Exhibit 1. That site plan reflects the fact that at that time Baltimore County had no zoning regulations that applied strictly to marinas. Regulations pertaining to setbacks for boat storage were not adopted until 1963. Consequently, the approved 1961 site plan calls for a boat ramp and boat storage on the subject property with no setback limitations nor with any limitations as to quantity or method of on-ground boat storage.

Marinas and business enterprises exist all along Holly Neck and Baltimore Yacht Club Roads. As the aerial photographs (Pet. E. 12) indicate, there are numerous adjacent marinas all along the waterfront. As testimony also indicated (Tr. 135-37), there are a couple of restaurants, a manufacturing facility and the Baltimore Yacht Club in addition to the marinas all in the immediate area.

Over the years the site was improved by a showroom and repair facility. No action was taken on the site until 1986 when the then owner of the property James Eurice investigated the possibility of storing boats on bolted rack frames inside a building with access to the boats by way of a forklift in place of piers and the boat ramp.

The initial site plan as revised as of March 21, 1989, indicates a 55,125 square foot building housing four racks four boats high (Pet. E. 3). The building set back 112 feet from th centerline of Holly Neck Road. The building at peak of roof was

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designed to be approximately thirty-seven (37) feet high with metal siding (Pet. E. 3). That site plan, however, and subsequent plans called for significant mitigation to the waterfront area and to the site in view of environmental concerns.

The limited development designation called for by the critical area criteria indicates that no more than fifteen percent (15%) of the site may be comprised of impervious surface and at least fifteen percent (15%) of the site should be forest cover. The site as it existed and exists now is fully developed for boat storage. The waterfront area is fully utilized for parking and storage and covered by impervious crusher run surface. There was even underground storage of gasoline. From the beginning the improvements to the site for water and environmental quality were important to Baltimore County. (Pet. E. 2). Water quality measures were required of Petitioner as part of the review process for the new construction. Upon final approval of the plan much of the waterfront will be returned to its natural state, and the impervious crusher-run surface will have to be removed.

Eventually, the Petition was amended to reflect th four (4) outside racks in place of the building. The plat as revised April 11, 1990, approved by the Zoning Commissioner, shows the final plan before the Board in this Case (Pet. E. 10). That plan along with Petitioner's Exhibits 5, 6, and 7, indicate the extensive work required by the Department of Environmental

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Protection and Resource Management and the Office of Planning and Zoning with respect to Petitioner's proposal. As the critical area findings all indicate (Pet. E. 6), the request meets or exceeds all zoning and environmental standards.

Petitioner Charles Anderson acquired the property in 1989. His request as approved by the Zoning Commissioner's Order of October 23, 1990, consisted of the amendment to the 1961 zoning order for the revised site plan including the racks and the layout of the site along with the restrictions, the granting of the variance from the paving requirements as recommended by the County departments and not contested in this case, the granting of the setback variance of 14 feet in lieu of the required 60 feet from the Theiss property to the North and the approval of 147 parking spaces.

The setback variances for the original building were caused by the anomaly of the location of the zoning line and building. B.L. zoning does not contain the setback requirements of R.C. 5 zoning. The racks consist of outside storage and pursuant to Baltimore County Zoning Regulations (hereinafter cited as B.C.Z.R.) 417.7 a sixty (60) foot setback is required. That setback was not taken from the rack, but as Petitioner's Exhibit 10 indicates, it was taken from the closest point from boats stored on the rack. No other setback, height, or area variance was requested. Mr. Theiss has never objected to the proposal (Tr. 143) and co-operated in the preparation and signing of Petitioner's Exhibit 4 allocating water usage to the facilities.

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The other adjacent property owner Mrs. Hensel supported the Petitions and relief requested (Tr. 161).

No criteria exist for parking of cars for on-ground boat storage, but a ratio of one parking space for two slips was established in 1988 while the case was pending. Zoning had a policy dealing with such parking pending adoption of the regulations. That variance was granted by the Zoning Commissioner in his order and modified by the Board in their Order.

Two of the storage racks closest to the Theiss property to the North were placed on the site by Petitioner's predecessor in title in 1988. At that time no development plan review was felt necessary as the racks do not constitute buildings. The Zoning Commissioner's Order, however, stipulated a County Review Group (hereinafter referred to as "C.R.G.") review of the property. A C.R.G. hearing was held in June 27, 1991, and approval was given for the development (Tr. 62-65). No appeal was taken.

DISCUSSION

The only error committed by the Board was its finding that the plan as proposed overcrowded the land and further stressed the critical areas and Sue Creek and its concomitant limitation of the racks allowed to three (3) and the parking to 125 spaces. Petitioner contends that the only competent evidence before the Board permitted the special exception amendment sought by the Petitioner.

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The request in the Special Hearing was to amend an existing special exception. The existing special exception did not limit in any way the number of boats stored on the property, the kind of storage or the number of cars permitted. There was no allocation of open space, of impervious area, and certainly in those days no restrictions existed for the benefit of water quality. The special hearing provided for all of these things.

In a B.L. zone the regulations require a floor area coverage of up to three times the land area (B.C.Z.R. Sec. 232.5). In an R.C. 5 zone the permitted building coverage is fifteen percent (15%) (B.C.Z.R. Sec. 1A04.3B.4). These are coverages permitted as of right. On the subject property we are talking of a total impervious area coverage of less than fifteen percent (15%) including paved parking, concrete pads, and paving in the streets adjacent to the property as well as building area. The development proposed is within the criteria of the Code. In addition, the development meets with but one exception setbacks for buildings as well as boat storage which setbacks are not even applicable to the existing, approved plan.

The only expert testimony and evidence introduced before the Board and the Zoning Commissioner were all consistent with Petitioner's proposal. There was no expert testimony contradicting the findings of the Department of Environmental Protection and Resource Management. In fact, all that Board had presented to it in opposition to the proposal were generalized statements about how crowded and polluted the waterways had

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> relatively inefficient instrument for the construction of a record. (Emphasis added.)

Judge M re, writing for this Court in Gough v. Bd. of Zoning Appeals, 21 Md. App. 697, 701 (1974), stated that, where "the court was required 'to speculate as to what facts the Board relied upon in reaching its decision' and to make what amounted to an independent evaluation of the facts," remand to the Board of Appeals may be appropriate.

As a reviewing court, that is precisely the situation presented to us in the matter at bar. Thus, we shall r mand this matter to the Circuit Court for Baltimore County with direction that it remand to the Board of Appeals so that the Board may explain the basis from the existing record evidence for its decision to grant the appellant a modified sp cial exception and variances.

JUDGMENT VACATED; CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE COUNTY, WITH INSTRUCTIONS TO REMAND TO THE BOARD OF APPEALS FOR BALTIMORE COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.
ONE-HALF OF COSTS TO BE PAID BY APPELLANT AND ONE-HALF OF COSTS TO BE PAID BY APPELLEES.

become. Those concerns were addressed by Petitioner's proposal.

Petitioner agreed to a limit as to the number of boats stored on the property and thereby agreed to a limit as to the number of boats using the water from his site. The 1961 plan not only had no limit as to the number of boats stored or as to the means of storage but also permitted the trailering of boats and entry by boats into the water by way of a boat ramp. Consequently, day boaters could be accommodated from the site as well as boaters who stored boats on the site.

The proposed plan requires removal of much existing impervious surface and the addition of landscaped areas around the property and at the water's edge. The purpose of the buffers is not purely aesthetic. It is hoped that be converting the area along the water back into a pervious area that runoff from the site will be minimized. Areas have been designated on the plan away from the water for boat cleaning. Restrictions are proposed on boat maintenance, which are not now applicable to the site.

The critical area reviews also indicated approval of on-ground storage as a means of storage superior to in-water storage (Pet. E. 2). These reviews, however, did not stop at the approval of a concept. Over the years as the plan was amended and refined, the County's critical area review process required numerous specific changes to the plan and specific water quality enhancements. The detailed critical area findings plan indicates the extent of the expert review of this project

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and its impacts on the specific estuary involved in the proceedings.

The in-depth reviews by the County agencies is in no way paralleled by any of Protestants' evidence. The record reveals that Protestants had dropped appeals on zoning requests for in-water slips on the adjacent marina seemingly for reasons unrelated to the environment or congestion on the waterways (Tr. 197-98). Protestants demonstrated confusion as to the number of boats involved in the project (Tr. 207) citing approximately double the number actually requested. Most of the Protestants failed to even read the County comments. Their testimony certainly can not be considered substantial basis for overturning the expert comments of the reviewers of the proposal.

Finally, it should be emphasized that this project has been subject to County review and comment over a four (4) year period. As the Zoning file (Pet. E. 15) indicates, there have been numerous comments filed by every county agency reviewing this project. The project has been reshaped and refined to address concerns, primarily environmental, pertaining to the request.

Under the Baltimore County Code a CRG hearing and plan approval is required for any development. Section 22-39 of the Baltimore County Code in its definition of "development" does not include the construction of structures such as racks or the placement of landscaping on a site as "development". Baltimore

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County in the past has never included structure construction such as pier construction as requiring C.R.G. approval even if zoning approval was necessary for permits. In this case, however, C.R.G. review was made a condition of the zoning order granting the requested relief. C.R.G. review consisted of a public hearing as well as plan review according to Article IV of Title 22 of the Baltimore County Code. That C.R.G. plan was approved in accord with Petitioner's zoning request. Accordingly, Petitioner has met every zoning and development standard and presented evidence and expert testimony justifying his request.

There simply was no competent testimony and absolutely no exhibits indicating that the request should in any way have been denied. Protestants conceded that the proposed plans may represent an improvement over the existing approved plan from an environmental standpoint (Tr. 214, 244) because of limitations on numbers and the methodology of storage. The safeguards contained in the proposed plan clearly indicate that there will be less usage of the entire site than currently exists, less in-water pollution, less run-off from the site and more open space and "green area" and more control and management over the boats using the waterways with new holding tanks and loading procedures than currently exist on the site.

CONCLUSION

In conclusion we believe that the refusal of the Board to

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grant Petitioner's request for all four (4) racks with the requested 147 parking spaces was not based on substantial evidence in the record and that the relief sought by Petitioner should have been granted in full.

Respectfully submitted,

John B. Gontrum
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(410) 686-8274
Attorney for
Cross-Appellant

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON	*	File #91CV4169
PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND	*	
BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH	*	
ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of November, 1991, a copy of the aforegoing Memorandum of Cross-Appellant was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

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IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * * * *	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 88-107-SPHA

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

APPELLANTS' MEMORANDUM OF LAW
REQUESTING THE REVERSAL OF THE
BALTIMORE COUNTY BOARD OF APPEALS' DECISION

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, Appellants, by their attorneys hereby submit the following Memorandum of Law requesting the reversal of the decision rendered in the above captioned case by the Baltimore County Board of Appeals.

INTRODUCTION

This is an appeal from the decision of the Baltimore County Board of Appeals, granting the Appellee's request for out-of-water boat storage racks at his marina on Sue Creek, a tributary of Middle River. On August 15, 1991, the Baltimore County Board of Appeals granted with restrictions appellee's request for additional boat racks and parking spaces as proposed by Amended Site Plan 5191-4. The Board also granted appellee's request for a variance so that the requested out-of-water storage facility could be located 14 feet from the property line in lieu of the 60

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foot statutory requirement. The amended plan provided for storage of an additional 384 boats and called for an additional 147 parking spaces.

The site is located in a residential/marine commercial area. A two-lane road (Holly Neck Road) currently provides access to the site.

A special exception permitting marine commercial use was granted to the previous owner of the site in 1961. Since then, there have been significant changes in Sue Creek. Long time residents of the surrounding community have noticed that th water quality has deteriorated as boat traffic in Sue Creek's narrow channels has increased.

Neighbors have expressed concern over the proposed expansion of Appellee's marina. They believe that additional boats will add to existing traffic congestion in the creek and on the narrow two lane road that serves the marina, exacerbate pollution in and around Sue Creek, and expose residents to increased fire risks due to the augmented congestion.

Several neighbors testified at the Board's hearing and expressed these concerns. They also attested to the increase in boating accidents, the health effects associated with the rising bacteria level in Sue Creek, and the community and site's inaccessibility to emergency response equipment.

Based upon the testimony recited above, the Board concluded that the amendment to the special exception and the variance would harm the environment and the health, safety, and welfare of the public. (Opinion at 8). The Board specifically stated that the amended plan " . . . would cause overcrowding of the land and public facilities and adversely impact the health, safety, and general welfare of the public." (Opinion at 8).

Despite the above findings of fact, the Board granted the appellee's amendment to the pre-existing special exception and the variance. In doing so, the Board not only failed to comply with the Baltimore County Zoning regulations, but acted arbitrarily, capriciously, and illegally. For these reasons, this Court should reverse the decision rendered by the Board.

ARGUMENT

THE BOARD'S DECISION IN THIS CASE IS NOT SUSTAINABLE ON THE AGENCY'S FINDINGS.

A. The Board's Decision Below is Contrary To Its Own Findings and Must be Reversed.

Numerous cases cite and quote the standard of review to be applied to decisions from administrative agencies. In Bd of Educ. of Montgomery County v. Milton A. Paynter et al., 303 MD. 22; 491 A.2d 1186 (1984), the Court of Appeals stated that "the

court reviewing a final decision of an administrative agency shall determine the legality of the decision and whether there was substantial evidence from the record as a whole to support the decision." This same court defined "substantial evidence" as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." See Bulluck v. Belhane Wood Apartments,283 Md. 505, 390 A.2d 1119 (1978).

The Court of Appeals also stated in People's Counsel v. Mockard, 73 Md. App. 340,349, 533 A.2d 1344 (1987) that a court may not uphold an "agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

The Board's decision is not sustainable on the findings of fact. In the present case, the Board found that the amended plan would cause overcrowding, stress the Critical Areas and Sue Creek, and affect the public's health, safety, and welfare. Opinion at 8. The Board specifically stated that the amended plan " . . . would cause overcrowding of the land and public facilities and adversely impact the health, safety, and general welfare of the public." Opinion at 8.

Clearly, the Board based its finding on the testimony it received from the neighbors surrounding the site. These neighbors testified about their concerns for their health, safety, and welfare. Specifically, the neighbors attested to the increased number of boating accidents, pollution, and fire risks presented by the amended plan. The neighbors also attested to the overcrowding and congestion of the roads. See generally

Record at 178-246. Th appellee presented little evidence to contradict the testimony of these witnesses.

In a nutshell, the Board's decision in this case to grant the requested variance and special exception is plainly inconsistent with its finding of fact that the proposed marina expansion would adversely affect the public's health, safety and general welfare. Because the Board's decision can not be squared with its own findings of fact, the decision below is incorrect as a matter of law and must be overturned.

II. THE BOARD FAILED TO COMPORT WITH STANDARDS GOVERNING THE GRANTING OF SPECIAL EXCEPTIONS AND VARIANCES.

A) The Standards Governing Special Exceptions and Variances.

Both case law and the Baltimore County Zoning regulations provide circumstances under which special exceptions and variances will not be granted. Section 502.1 of the Baltimore County Zoning regulations provide that a special exception shall not be granted if it:

a. is detrimental to the health, safety or general welfare;

b. tends to overcrowd land or cause undue concentration of people;

c. tends to create congestion in the streets or ways; or

d. creates a fire or panic hazard.

(See, Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267

PCF: ___
PMZ: ___

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK RD. AND BALTIMORE YACHT CLUB ROAD	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
	*	CASE NO. 91CV4169

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

NOTICE OF APPEAL BY CHARLES N. ANDERSON, JR.

MR. CLERK:

Enter an Appeal to the Court of Special Appeals from the Order entered in this action on June 1, 1992 by Barbara Kerr Howe denying Charles N. Anderson, Jr.'s Motion to Alter, Amend and/or Revise Judgment pursuant to Maryland Rules of Procedures 2-534 and 2-535 and from the Order entered by Barbara Kerr Howe on April 1, 1992 reversing the decision from the Baltimore County Board of Appeals.

John B. Gontrum
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Essex, Maryland 21221
(410) 686-8274
Attorney for Appellant.

JUL 01 1992

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of June, 1992, a copy of the foregoing Notice of Appeal was mailed, postage prepaid to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns,

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ESSEX, MARYLAND

(1964)).

Similarly, the case law establishes standards for determining whether a variance should be granted. The Court of Appeals in McLean v. Soley, 310 A.2d 783, 270 Md. 208 (1973) held that the standard for granting a height or area variance is " . . . whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship' . . ." For area variances the "practical difficulty" standard is applied.

In McLean, the Court used the following criteria to determine the issue of "practical difficulty:"

1. Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean (quoting 2 Rathkopf, "The Law of Zoning and Planning", 45-28, (3d ed. 1972)).

The decision below is inconsistent with the required standards for granting exceptions and variances. The Board's decision, therefore, should be reversed.

B) The Board's Decision Fails to Protect the Health, Safety and General Welfare of the Public.

The Board had an obligation when granting the requested special exception and variance to assure that the amended plan did not adversely impact the health, safety, and general welfare of the public. See Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267 (1964) and McLean v. Soley, 310 A.2d 783, 270 Md. 208 (1973). The amended plan plainly fails to meet the required standard.

In fact, the Board found that the amended plan would have a negative effect on the public's health, safety, and welfare. The Board's Opinion stated specifically that ". . . the amended plan would . . . adversely impact the health, safety, and general welfare of the public." (Opinion at 8).

The record supports the Board's finding. Several witnesses testified that the creek was unsafe for swimming. Another

witness attested to the high levels of bacteria present in the creek. Other witnesses described the fire hazards created by the amended plan. See generally Record at 183, 225-226. (The Court should note that this fire hazard alone is a basis for the denial of the proposed project. See, Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267 (1964).) The Appellee offered little evidence to contradict the testimony of these witnesses.

Because the Board found that the amended plan " . . . would adversely impact the health, safety, and general welfare of the public", appellee's proposed project fails as a matter of law to meet the standards established in McLean and in the zoning regulations.

C. The Amended Plan Will Overcrowd the Land and Create Congestion in Surrounding Streets and Waterways.

In granting the special exception and variance, the Board also had an obligation to assure that the amended plan would not cause overcrowding or congestion of the streets and waterways. See Levy et al. v. Seven Slade, Inc., 234 Md. 145, 198 A.2d 267 1964.

The Board itself found that the amended plan would cause overcrowding. Specifically, in its Opinion, the Board stated that the amended plan ". . . would cause overcrowding of the land and public facilities . . ." (Opinion at 8).

Again, the record supports the Board's decision. Several

witnesses testified about existing overcrowding at the marina and on the narrow access road to the site. One witness testified that the chief purpose for using rack storage is that it allows facilities to place a large number of boats into a small area. Record at 182. Another witness commented that the creeks in the area were so densely concentrated with boats that it was like running an obstacle course. Record at 190. A third witness noting the overcrowding in Sue Creek, commented that on July 28, 1991, there were 761 boats moored in the narrow channels of Sue Creek. Opinion at 5. See also, Exhibit 3 (People's Counsel).

Based on the above testimony and the Board's findings of fact, the amended plan fails to meet the required standards set forth by Section 502.1 of the zoning regulations. This Court should, therefore, reverse the Board's decision.

D. Denial of the Requested Variance Will Not Result in Unreasonable Hardship

As stated previously, a variance maybe granted if " . . . strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship' . . ." McLean at 783. Moreover, the Court of Appeals has held that a personal inconvenience is not sufficient to warrant an area exception or variance. Carney v. City of Baltimore, 201 Md. 130, 93 A.2d 74 1952.

The appellee can clearly continue to operate his business without the requested variance and special exception. In fact,

the appellee currently uses the property for racked boat storage. Appellee testified that he selected this method of boat storage because it was convenient for boat owners. (Opinion, at 4). Denying the variance, therefore, would not hinder the appellee from using his property for its permitted purpose.

Since the appellee's request for a variance was based on convenience rather than undue hardship or burden, the Board's decision to grant the variance was illegal. See, Carney v. City of Baltimore, 201 Md. 130, 93 A.2d 74 1952. The Board's decision, therefore, should be reversed.

CONCLUSION

The standard of review to be applied to the Board's decision is set forth in the Maryland Administrative Procedure Act, State Government Article, § 10-215. That provision, in pertinent part, states that the circuit court may ". . . reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion or decision of the agency ". . . . (iv) is affected by any other error of law. . . ." or is "(vi) is arbitrary or capricious." MD STATE GOV'T CODE ANN. §10-215 (g) (1984). For the reasons set forth above, the Board's decision was arbitrary, capricious, and illegal and should be reversed.

WHEREFORE, Appellants, respectfully request that this Court reverse the decision made by the Baltimore County Board of Appeals.

Attorneys for Appellants

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Kenda Layne*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
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(301) 328-2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 1991, a copy of this Memorandum for Appellants was delivered to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204. A copy was also mailed to the Attorney for Appellee, John B. Gontrum, 814 Eastern Blvd., Baltimore, MD 21221.

Kenda Layne*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

Form CA4

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

Irene Summers — 887-2660
Civil Assignment Commissioner

Kathy Rushton — 887-2660
Jury Assignments—Civil
General Settlement Conferences

— 887-2661
Non-Jury Assignments—Civil
Special Settlement Conferences

TO:

October 28, 1991

Phyllis Cole Friedman, Esq.

Peter Max Zimmerman, Esq.

Melinda A. Rubin, Esq.
Scott Burns, Esq.

John B. Gontrum, Esq.

County Board of Appeals of Baltimore, Co.

RE: Non-Jury 91-CV-4169 In The Matter of Charles N. Anderson, Jr.

HEARING DATE: Tuesday, January 21, 1992, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 3/4 hr.

Please see the below notations.

91 OCT 31 PM 12:05

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.

If the above Hearing 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 PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement if 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.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	Docket No. 2 Folio No. 1 File No. 91-CV-4169

ORDER FOR APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, Robert Christopher, by their attorneys, and People's Counsel for Baltimore County, pursuant to Rule B2 of the Maryland Rules, hereby appeal the Opinion and Order of Baltimore County Board of Appeals entered in this case on August 15, 1991

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for
Baltimore County

Melinda A. Rubin*

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Scott Burns

SEP 13 AM 10:35

People's Counsel
Room 304, County Office Bldg.
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887 - 2188

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Individual Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 1991, a copy of the foregoing Order of Appeal was delivered to the

Building, 111 W. Chesapeake Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Plaintiffs; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Plaintiffs; John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Defendant; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Defendant; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204 on this 13th day of September, 1991.

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

EXCERPT OF PROCEEDINGS

THE COURT: All right. I looked carefully at the Motion to Alter, Amend and/or Revise Judgment, listen to the arguments of counsel this morning. I know that Mr. Gontrum, on behalf of the Petitioner, is arguing ambiguity, but I don't find an ambiguity in the opinion that I read from the Board of Appeals.

Mr. Gontrum argues, additionally, that there are incomplete findings of fact, because the site plan was never offer to the Board with three racks proposed, only with the four racks and, in addition, concedes that there were not any findings of fact made with the granting of the variances in the case. They were just simply granted.

I understand, as well, that the landowner, Mr. Anderson, is also very concern because he believes that will be 18, an 18-month time period will run before a new special exception request can be finally considered by the Board of Appeals. But under the whole state of this case, I cannot find adequate grounds to remand this case to the Board of Appeals. Its decision is what it is, and I believe that the action that it took is illegal.

Now, having said all that, I'm very concerned here as to what the practical effect is going to be to Mr. Anderson, what the effect of his current and existing special exception is. Without knowing otherwise, I would assume that he can

continue to operate under his currently existing special exception; is that correct, Mr. Gontrum?

MR. GONTRUM: Yes, your Honor. I, I don't think this has the fact of denying special --

THE COURT: Right.

MR. GONTRUM: -- exception.

THE COURT: It just denies his request to amend the special exception which he currently has. So I deny the Motion to Alter, Amend and/or Revise Judgment.

MR. ZIMMERMAN: Will the Court enter a --

THE COURT: It'll be entered today.

MR. ZIMMERMAN: Okay. So there's no need for an order?

THE COURT: No.

MR. ZIMMERMAN: Okay.

MR. GONTRUM: All right. Thank you, your Honor.

MR. ZIMMERMAN: Thank you.

(The hearing was concluded at 11:18 a.m.)

85-107 SPHA

Exhibits PAGE 1 of 3

Petitioner

1. 1961 Site Plan "Sun Creek Marina, Inc." 1/24/61

2. Ltr. Haines from Sheesley 9/15/87 (4 pgs)

3. ~~Site~~ Plan "Jenkins North Marina" last revision date 3/21/89

4. Site Plan "Sun Marine" last revision date 8/2/90

~~5. Hearings Report - Sheesley to Haines~~

5. Final Landscape Plan for Anderson Brothers Boat Sales sealed by Office of Planning + Zoning 7/12/91

6. Inter-Office Correspondence from Sheesley to Haines 8/14/89

7. Site Plan - Anderson Brothers Boat Sales formerly Jenkins North Marina - final revision date 8/31/89

(over)

8. Cross-Section drawing of proposed racks, landscaping, etc.

9. Ltr. to Jenkins from Schneider, PE 8/2/88

10. Plat To Accompany Petition For Special Hearing To Amend Special Exception and To Approve Parking and Variance - final revision date 4/11/90

~~11. CRG - Plans and comments 6/27/91~~
~~a. C.R.G. Plans~~
~~b. Comments~~

11. Photographs of similar operation of racks storage
a. } boat being placed in water
b. }
c. } launching operation
d. }
e. fork lift
f. framework on launch well
g. building + fork lift
h. interior storage w/ boats
i. boats in racks
j. boat on fork lift

12 Photographs
a. aerial - marina
b. " " w/ racks
c. long aerial "
d. very long aerial, marina
e. direct overhead, marina
f. Holly Neck Rd / marina

13. Photographs
a. Johnson house
b. subject site
c. w on Holly Neck Road
d. fire hydrant
e. "
f. boat store on site
g. w on Holly Neck to site
h. Hansen house
i. piers on site
j. composite - racks + pier
k. composite - play area + trailers
l. on-site driveway
m. two boat racks on-site
n. boat racks + trailered boats
o. view from water line

14. a. Rental Contract 4/1/91
b. Marina Rules + Conditions 1/15/91

15. JC file

88-107

Exhibits (cont'd)

People's Counsel

1. Photographic Map 1"-200' scale "Holly Neck" 1/86. As marked by People's Counsel
2. Office of Assessments Inquiry 12/16/88
3. ~~In closet - Cardboard 14" x 33" exhibit~~ Map of boat count 7/25/91 prepared by witness Beaman
4. Photographs
   a. Vandermast area of Sue Creek
   b. Sue Creek - no vegetation
   c. " " "
   d. Bobel Property
   e. Beaman boat
5. Petition - 18 signatures
6. Photographs
   a. centerline Holly Neck - boat racks
   b. subject site w/ store
   c. " " " "
   d. subject site driveway w/ racks
   e. across Holly Neck Rd to entrance
   f. fence w/ foliage
   g. sighting down Holly Neck Rd.
   h. fence w/ foliage & racks
   i. " " " "

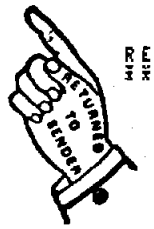
(over)

6. j Holly Neck Rd w/ speed limit signs
k. close-up of fence, foliage + rock

7. Photograph - Chesapeake Bay Protection Area sign
8. Photographs - 11/90 from water of subject site
9. List of Protestants

unty Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Return Service Requested



RETURN SERVICE REQUESTED

Karen L. Plumer, Esquire
~~Woodmere I, Suite 400~~
~~9881 Broken Land Parkway~~
~~Columbia, MD 21046~~



~~Please Forward To:~~
942 Waterview Drive
Crownsville, MD 21032

APPEAL

Petition for Special Hearing and Zoning Variance
NW/Corner Holly ~~Back~~ Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District - 5th Councilmanic District
CHARLES N. ANDERSON, JR. - Petitioner
Case No. 88-107-SPHA

√ Petitions for Special Hearing and Zoning Variance

√ Description of Property

√ Certificate of Posting

√ Certificate of Publication

√ Entry of Appearance of People's Counsel

√ Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (NONE submitted)

Petitioner's Exhibits:
√ 1. Copy of Plan - Sun Marine
√ 2. Photos of Docks
√ 3. Plat approved by OPZ (Case No. 5191)
√ 4A. - 4D. - Comment Report from DEPRM (1987)
√ 5. Plat to accompany Petitions (Sheet 1 of 2)
√ 6. Plat to accompany Petitions (Sheet 2 of 2)
√ 7. Comment Report from DEPRM (1989)
√ 8. Plat to accompany Petitions (Sheet 1 of 2)
√ 9. Plan - Sun Marine
√ 10. 6 Photos of marina
√ 11. Several Photos of marina

Protestant's Exhibits:
√ 1. 11 Photos of marina area

√ Zoning Commissioner's Order dated October 23, 1990 (Granted with restrictions)

√ Notice of Appeal received November 21, 1990 from People's Counsel

cc: Charles N. Anderson, Jr. - 2904 Mountain Road, Pasadena, MD 21122

John B. Gontrum - 814 Eastern Boulevard, Baltimore, MD 21221

Albert R. Anderson - ~~1249 Evergreen Road~~, Baltimore, MD 21221 not a good address 5/13/91

Eric J. and Antonia M. Arciaga
2501 Holly Neck Road, Baltimore, MD 21221 √√√√

* People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Copy of Opinion to Jae Kolarn

Request Notification: David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

4/28/94 →
MAILED OUT
FILE & EXHIBITS

- JOHN - SUPERVISOR
- KRISTEN MAILED OUT 4-28-94

(FILE RET'D TO OCT FROM CSA 6/93)

2/28/96 pee : K. MILTON / EADM

BILL BAFITIS:

TO NOTIFY CBA OF INTENTIONS TO WITHDRAW/ABANDON THIS CASE (SUBMITTING PLAN UNDER NEW REGULATIONS IN EADM)

#391-7336

CALL JOHN GONTRUM

684-8274

CASE NO. 91-CV-4169

IN THE MATTER OF CHARLES N. ANDERSON, JR.

V.

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE & EXHIBITS.

Tom Hall
Clerk's Office

Date: 10/15/91

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

October 30, 1991

Circuit Court for Baltimore County
Civil Division
Towson, Maryland 21285

Dear Madam Clerk:

Enclosed please find our Answer to Amended Petition On Cross Appeal for filing.

Thank you for handling this matter.

Sincerely,

Melinda A. Rubin
Student Attorney

91 NOV -4 AM 11:45

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

Attorneys
Barbara L. Bezdek
Richard C. Boldt
Scott Burns
David F. Chavkin
Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Theresa Glennon
Stanley S. Herr
Homer C. LaRue
Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

Entrance: 500 West Baltimore Street

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO AMENDED PETITION ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, in answer to the Amended Petition on Cross Appeal of Charles N. Anderson, Jr., state:

1. The Appellants deny each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, the Appellants request that the Cross Appeal be dismissed.

Melinda A. Rubin*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 1991, a copy of the foregoing Answer to Amended Petition on Cross Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, Maryland 21204; and Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Bldg., 111 West Chesapeake Ave., Towson, Maryland 21204; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No.· 91-CV4169

: : : : : : :

ANSWER TO AMENDED PETITION ON CROSS APPEAL

People's Counsel for Baltimore County in answer to the Amended Petition on Cross Appeal of Charles N. Anderson, Jr., states:

1. People's Counsel denies each and every Paragraph 1. through 4. of the Amended Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, People's Counsel requests that the cross appeal be dismissed.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 28th day of October, 1991, a copy of the foregoing Answer to Amended Petition on Cross Appeal was served on the Administrative Assistant, County Board of Appeals, Rm. 315, County Office Bldg.,

Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201.

John B. Gontrum

LAW FIRM

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
ESSEX, MARYLAND

Towson, MD 21204; and a copy mailed to Melinda A. Rubin, Esquire, and Scott Burns, Esquire, Clinical Law Office, University of Maryland, 510 W. Baltimore St., Baltimore, MD 21201; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, MD 21221.

Peter Max Zimmerman

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.,

Appellants

v.

CLARIDGE TOWERS COMPANY,

Appellee

: IN THE CIRCUIT COURT

: FOR BALTIMORE COUNTY

: Case No. 91CV4798

: : : : : : :

ANSWER TO PETITION FOR APPEAL (ON CROSS APPEAL)

People's Counsel for Baltimore County, et al., Protestants below and Appellants herein, state:

1. People's Counsel, et al. deny each and every Paragraph 1. through 6. of the Petition for Appeal (On Cross Appeal).

2. In further answer, undersigned Appellants-Protestants state that the entire petition for rezoning should have been denied for the reasons stated in their own Petition on Appeal.

Richard C. Burch/ph
Richard C. Burch
Suite 300, 105 West
Chesapeake Avenue
Towson, Maryland 21204
(301) 828-1335
Attorney for Individual
Protestants

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 28th day of October, 1991, a copy of the foregoing Answer to Petition for Appeal (On Cross Appeal) was served on the Administrative Assistant, County Board of Appeals, Rm. 315 County Office Bldg., Towson, MD 21204; and a copy mailed to S. Eric DiNenna, Esquire, Mercantile Towson Bldg., 409 Washington Ave., Suite 600, Towson, MD 21204.

Peter Max Zimmerman

Peter Max Zimmerman

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

October 17, 1991

Re: In the matter of the application of
Charles N. Anderson, Jr.,
Case No. 91CV4169

Dear Madam Clerk:

Enclosed for filing in the above referenced case please find appellants' Answer to Petition on Cross Appeal.

Thank you for your assistance.

Sincerely,

Melinda A. Rubin
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

91 OCT 18 AM 11:25

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

Attorneys
Barbara L. Bezdek
Richard C. Boldt
Scott Burns
David F. Chavkin
Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Theresa Glennon
Stanley S. Herr
Homer C. LaRue
Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

Entrance: 500 West Baltimore Street

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO PETITION ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, in answer to the Petition on Cross Appeal of Charles N. Anderson, Jr., state:

1. The Appellants deny each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, the Appellants request that the Cross Appeal be dismissed.

Melinda A. Rubin*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Appellants

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

Answer to Petition on Appeal - PC

* * * * * * * * *

PETITION ON CROSS APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in answer to Petition On appeal filed by People's Counsel for Baltimore County and states:

1. That each and every allegation contained in paragraphs 2, 3, and 4 of the Petition are **DENIED.**

2. That the allegations contained in paragraph 1 are **DENIED** to the extent that they indicate the Board lacked sufficient evidence in granting the relief requested by Charles N. Anderson, Jr., but **ADMITTED** to the extent that they indicate that the Board lacked substantial evidence on which to limit construction to three (3) racks with a total of 280 boats is Condition 5 of the Board's Opinion and Order.

WHEREFORE, Charles N. Anderson, Jr. asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson, Jr. pertaining to a fourth rack denied by the Board.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this __ day of October, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room

304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

10/11/91

91 OCT 10 PM 2:25

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON	*	File #91CV4169
PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND	*	
BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH	*	
ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

ANSWER TO PETITION ON APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in Answer to Petition On Appeal filed by People's Counsel for Baltimore County and states:

1. That each and every allegation contained in paragraphs 2, 3, and 4 of the Petition are **DENIED.**

2. That the allegations contained in paragraph 1 are **DENIED** to the extent that they indicate the Board lacked sufficient evidence in granting the relief requested by Charles N. Anderson, Jr., but **ADMITTED** to the extent that they indicate that the Board lacked substantial evidence on which to limit construction to three (3) racks with a total of 280 boats is Condition 5 of the Board's Opinion and Order.

WHEREFORE, Charles N. Anderson, Jr. asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson, Jr. pertaining to a fourth rack denied by the Board and that the Appeal by People's Counsel be dismissed.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 10 day of October, 1991, a copy of the foregoing Answer to Petition on Appeal was mailed,

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY NO. 91CV4169

* * * * * * * * *

ANSWER TO PETITION ON APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in answer to Petition for Appeal of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher and states:

1. That each and every allegation contained in paragraphs 2, 4, and 5 of the Petition are **DENIED.**

2. That the allegations contained in Paragraph 1 are **ADMITTED** insofar as the Board's Opinion incorrectly interpreted the Baltimore County Zoning Regulations as justification for Condition 5 of the Order, but the allegations are **DENIED** to the extent that they indicate that the Regulations required denial of the relief requested, or that the decision should have denied any part or all of the relief requested.

3. That the allegations contained in Paragraph 3 and **DENIED** to the extent that they indicate that the Board's decision to grant the relief requested by Charles N. Anderson at least in part was not supported, but said allegations are **ADMITTED** in that the Board had no basis in the record to restrict construction to a total of three racks with a capacity of 280 boats.

WHEREFORE, Charles N. Anderson asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson pertaining to a fourth rack denied by the Board in Condition 5 of the Board's Opinion and Order and that the Appeal by Petitioners herein be dismissed.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

I HEREBY CERTIFY that on this 12 day of March, 1991, a copy of the foregoing Answer to Petition on Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE MATTER OF THE THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NW/COR HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
	*	CASE NO. 88-107-SPHA
15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

ORDER OF DISMISSAL

This matter comes before this Board on appeal from a decision of the Zoning Commissioner dated October 23, 1990 in which the Petitions for Special Hearing and Variance were granted with restrictions.

WHEREAS, the Board has been reviewing its docket with reference to inactive cases with the intent to dismiss and close as many of these cases as possible; and

WHEREAS, the subject matter has been held on the Board's docket since February 23, 2001, and no further action has occurred since that date;

IT IS HEREBY ORDERED this 18th day of April, 2002 by the County Board of Appeals of Baltimore County that the above-referenced Petitions in Case No. 88-107-SPHA be and the same are hereby **DISMISSED FOR LACK OF PROSECUTION**, and that any and all relief granted therein is rendered **null and void.**

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Chairman

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

April 27, 1992

Circuit Court for Baltimore County
Office of the Clerk
County Court Building
P.O. Box 6754
Towson, Maryland 21285-6754

RE: In the Matter of the Application of Charles N. Anderson, Jr., Case No. 91CV4169

Dear Sir:

Enclosed for filing in the above referenced case please find Appellants' Memorandum in Response to Appellee's Motion to Alter, Amend, and/or Revise this court's decision.

Thank you for your attention to this matter.

Sincerely,

Kenda Layne
Clinical Law Office of the
University of Maryland
500 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

Attorneys
Barbara L. Bezdek
Richard C. Boldt
Scott Burns
David F. Chavkin
Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Theresa Glennon
Stanley S. Herr
Homer C. LaRue
Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 day of October, 1991, a copy of the foregoing Answer to Petition on Cross Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, Maryland 21204; and Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Bldg., 111 West Chesapeake Ave., Towson, Maryland 21204; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY/ERIC ARCIAGA, ET AL, APPELLANTS; CHARLES N. ANDERSON, JR., CROSS-APPELLANT ZONING CASE NO. 88-107-SPHA	*	CG Doc. No. 2 Folio No. 1 File No. 91-CV-4169

* * * * * * * * *

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, Harry E. Buchheister, Jr., and Lynn B. Moreland, 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 Commissioner and the Board of Appeals of Baltimore County:

No. 88-107-SPHA

June 21, 1990	Petition filed by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr. for a Special Hearing to amend site plan #5191-4, to construct storage racks and RTA determination.
June 21	Petition filed by John B. Gontrum, Esquire for Variances for out-of-water boat storage facility 14' from property line and paving and parking variances.
July 12	Publication in newspaper.
August 25	Certificate of Posting of property.

September 16, 1990	Comments of Baltimore County Zoning Plans Advisory Committee.
August 21	Hearing held on Petition by the Zoning Commissioner.
October 23	Order of the Zoning Commissioner GRANTING Petitions with restrictions.
November 21	Notice of Appeal received from People's Counsel for Baltimore County.
July 31, 1991	Hearing before the Board of Appeals.
August 15	Opinion and Order of the Board GRANTING the Petitions with restrictions.
September 13	Order for Appeal filed in the Circuit Court for Baltimore County by the Office of People's Counsel for Baltimore County and Melinda A. Rubin, Student Attorney and Scott Burns, Esquire on behalf of Regina Beasman, et al, Protestants.
September 13	Certificate of Notice sent to interested parties.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by Melinda A. Rubin, Student Attorney and Scott Burns, Esquire.
September 25	Cross-Appeal filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr.; Petition to accompany appeal also filed by Mr. Gontrum.
September 26	Certificate of Notice sent to interested parties.
October 15	Transcript of testimony filed.

Petitioner's Exhibit No. 1 -1961 Site Plan "Sue Creek Marina, Inc." 1/24/61
2 -Ltr. Haines from Sheesley 9/18/87 (4 pgs.)
3 -Site Plan "Jenkins North Marina" last revision date 3/21/89
4 -Site Plan "Sun Marina" last revision date 8/2/90
5 -Final Landscape Plan for Anderson Brothers Boat Sales sealed by Office of Planning & Zoning 7/22/91
6 -Inter-Office Correspondence from Sheesley to Haines 8/14/89
7 -Site Plan - Anderson Brothers Boat Sales Formerly Jenkins North Marina - final revision date 8/31/89
8 -Cross-Section drawing of proposed racks, landscaping, etc.
9 -Ltr. to Jenkins from Schneider, P.E. 8/2/88
10 -Plat to accompany Petition for Special Hearing to amend Special Exception and to approve parking and variance - final revision date 4/11/90
11 -Photographs of similar operation of rack storage
duplicated in studio.
a-Boat being placed in water
b-same as above
c-launching operation
d-same as above
e-fork lift
f-framework on launch well
g-building & fork lift
h-interior storage w/boats
i-boats in racks
j-boat on fork lift
12 -Photographs
a-aerial - marina
b-same as above w/racks
c-long aerial
d-very long aerial, marina
e-direct overhead, marina
f-Holly Neck Road w/marina
13 -Photographs
a-Johnson house
b-subject site
c-West on Holly Neck Rd.
d-fire hydrant
e-same as above

Petitioner's Exhibit No. 13
- f-boat store on site
- g-West on Holly Neck to site
- h-Hansen house
- i-piers on site
- j-composite -racks & parking
- k-composite - parking area & trailers
- l-on-site driveway
- m-two boat racks on-site
- n-boat rack & trailered boats
- o-view from water line

14 -a-Rental Contract 4/1/91
- b-Marina Rules & Conditions 1/15/91

15 -Zoning Commissioner's file

People's Counsel Exhibit No.
1 - Photographic Map 1"-200' scale "Holly Neck" 1/86 as marked by People's Counsel

2-Office of Assessments Inquiry 12/16/88

3-Map of boat count 7/28/91 prepared by witness Beasman

4-Photographs
- a-Vandermast area of Sue Creek
- b-Sue Creek-no vegetation
- c-same as above
- d-Bohel Property
- e-Beasman boat

5-Petition - 18 signatures

6-Photographs
- a-centerline Holly Neck - boat racks
- b-subject site w/store
- c-same as above
- d-subject site driveway w/racks
- e-across Holly Neck Rd. to entrance
- f-fence w/foilage
- g-sighting down Holly Neck Road
- h-fence w/foilage & racks
- i-same as above
- j-Holly Neck Rd. w/speed limit sign
- k-close-up of fence, foilage & rack

7-Photograph - Chesapeake Bay Protection Area sign

8-Photographs - 11/90 from water of subject site

9-List of Protestants

October 15, 1991 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Respectfully submitted,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul, Legal Secretary, County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 (301) 887-3180

cc: People's Counsel for Baltimore County
Melinda A. Rubin, Student Attorney
Scott Burns, Esquire
Mr. Eric Arciaga, et al
John B. Gontrum, Esquire
Mr. Charles N. Anderson, Jr.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

AMENDED PETITION ON CROSS APPEAL

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B2 of the Maryland Rules, hereby files this Petition on Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991, and in support thereof says as follows:

1. That the Board lacked substantial basis in the record to modify the special hearing request of four (4) separate rack systems to three (3) separate racks.

2. That the Board failed to apply the appropriate legal standard in modifying the special hearing request amending the existing special exception.

3. That by modifying the special hearing request the Board limited the existing special exception, which permitted

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

unrestricted on-shore usage, beyond the limitations proposed by applicant, which limitation was not before the Board.

4. That the Opinion and Order of the Board took into consideration factors not appropriate for an application to modify an existing special exception thereby committing error.

WHEREFORE, Charles N. Anderson requests this Court affirm the Opinion and Order of the Board of Appeals in substantial part but to reverse the issuance of Condition 5 in the Opinion and Order of the Board limiting the number of racks to three(3) and limited to 280 boats.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 1st day of October, 1991, a copy of the foregoing Amended Petition on Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO PETITION ON CROSS APPEAL

People's Counsel for Baltimore County in answer to the Petition on Cross Appeal of Charles N. Anderson, Jr., states:

1. People's Counsel denies each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, People's Counsel requests that the cross appeal be dismissed.

91 OCT -7 AM 11:43

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 7th day of October, 1991, a copy of the foregoing Answer to Petition on Cross Appeal was served on the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204; and a copy mailed to Melinda A. Rubin, Esquire, and Scott Burns, Esquire,

Clinical Law Office, University of Maryland, 510 W. Baltimore St., Baltimore, Maryland 21201; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, MD 21221.

Peter Max Zimmerman

4/27/92

IN THE MATTER OF THE	*	IN THE
APPLICATION OF	*	
CHARLES N. ANDERSON, JR.	*	CIRCUIT COURT
FOR A SPECIAL HEARING TO AMEND	*	
A SPECIAL EXCEPTION AND VARIANCES	*	FOR
ON PROPERTY LOCATED ON THE	*	
NORTHWEST CORNER OF HOLLY NECK RD.	*	BALTIMORE COUNTY
AND BALTIMORE YACHT CLUB RD.	*	
	*	Case No. 91CV4169

* *

MEMORANDUM IN RESPONSE TO
MOTION TO ALTER, AMEND, AND/OR REVISE
THIS COURT'S DECISION

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, by their attorneys, submit the following memorandum in response to the motion to alter, amend and/or revise this court's decision submitted by Appellee.

INTRODUCTION

This memorandum responds to the motion to alter, amend and/or revise the decision rendered by the court in this case. On April 1, 1992, this court reversed the Board of Appeals decision which granted, with modifications, a special exception and variance. The court held that the Board of

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 26, 1991

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan, P.A.
814 Eastern Boulevard
Essex, Maryland 21221

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Gontrum:

In accordance with Rule B-7(a) 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 appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for this cross-appeal must be at your expense.

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

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Charles N. Anderson, Jr.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 26, 1991

Scott Burns, Esquire
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Burns:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that a cross-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,

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Melinda A. Rubin, Student Attorney
Eric Arciaga, et al
People's Counsel for Baltimore County
P. David Fields
Patrick Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CHARLES N. ANDERSON, JR., PLAINTIFF	*	CG Doc. No. 2
	*	Folio No. 1
ZONING CASE NO. 88-107-SPHA	*	File No. 91-CV-4169

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr. and Lynn B. Moreland, 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, John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Appellant/Petitioner; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Appellant/Petitioner; Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Protestants; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Protestants; and Michael B. Sauer, Esquire, c/o County Board of

Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Appellant/Petitioner; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Appellant/Petitioner; Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Protestants; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Protestants; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204 on this 26th day of September, 1991.

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

ORDER FOR CROSS APPEAL

FILED
91 SEP 27 AM 11:16
CIRCUIT COURT
BALTIMORE COUNTY

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B4 of the Maryland Rules, hereby files this Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 27 day of September, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

PETITION ON CROSS APPEAL

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B2 of the Maryland Rules, hereby files this Petition on Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991, and in support thereof says as follows:

1. That the Board lacked substantial basis in the record to modify the special hearing request of four (4) separate rack systems to three (3) separate racks.

2. That the Board failed to apply the appropriate legal standard in modifying the special hearing request amending the existing special exception.

3. That by modifying the special hearing request the Board limited the existing special exception, which permitted

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

unrestricted on-shore usage, beyond the limitations proposed by applicant, which limitation was not before the Board.

4. That the Opinion and Order of the Board took into consideration factors not appropriate for an application to modify an existing special exception thereby committing error.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 25 day of September, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.,	:	IN THE CIRCUIT COURT
	:	FOR BALTIMORE COUNTY
Appellants	:	Docket No. 2
v.	:	Folio No. 1
CHARLES N. ANDERSON, JR.	:	File No. 91-CV-4169
Appellee	:	
ZONING CASE NO. 88-107-SPHA	:	

: : : : : :

PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals under date of August 15, 1991, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion, and therefore their Order passed herein is illegal, arbitrary, and capricious.

2. That the decision of the County Board of Appeals will result in the overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public.

3. That the decision of the Board will further contribute to water quality problems in Sue Creek and result in environmental degradation in the Critical Area.

91 SEP 23 PM 12:21

4. That, based on the Board's own factual findings, the proposal as submitted would cause adverse effects unique to the neighborhood, and thus did not qualify for a special exception; that there was no specific finding or analysis to show that approval of a facility reduced in size would be satisfactory; and that there was no finding to justify any side yard setback variance based on practical difficulty.

WHEREFORE, People's Counsel prays that the Court will issue an Order reversing the Board of Appeals.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 23rd day of September, 1991, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to Melissa Rubin, Esquire, and Scott Burns, Esquire, Clinical Law Office, University of Maryland, 510 W.

Baltimore Street, Baltimore, MD 21201; and John B. Gontrum, Esquire, 814 Eastern Boulevard, Baltimore, MD 21221.

Phyllis Cole Friedman

Phyllis Cole Friedman

Appeals decision was inconsistent with the Board's findings of fact and "incorrect as a matter of law." Opinion page 2.

In its decision, the Board of Appeals found that the proposed project will adversely impact the health, safety, and general welfare of the public and further stress the Critical Area and Sue Creek. The Board's findings of fact failed to comport with the legal standards governing the granting of special exceptions and variances. This Court's decision in this case, therefore, was correct.

THE AUTHORITY CITED BY APPELLEE DOES NOT SUPPORT HIS REQUEST FOR REMAND

The authority relied upon by Appellee does not support his request that this case be remanded to the Board of Appeals. Because the weight of authority does not support remand, Appellee's motion should be denied.

Specifically, opposing counsel cites Public Service Commission v Patuxent Valley Conservation League, 300 Md. 200, 477 A.2d 759 (1984), in support of his request that this case be remended so that the Board of Appeals can engage in "further fact finding" in order to "clarify and harmonize" its opinion. But the Patuxent Valley case only provides for remand in cases where an agency has **completely failed** to make findings of fact. *See*, Patuxent Valley, supra, 300 Md. at

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND FILE NO. 91CV4169

* *

PETITION FOR APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, petition this Court to reverse the Opinion and Order of the Baltimore County Board of Appeals entered in the instant case on August 15, 1991, for the following reasons:

1. The decision below is illegal because it does not comport with the requirements set forth in the Baltimore County Zoning Regulations governing the granting of Special Exceptions; and

2. The decision below is illegal because it is inconsistent with the requirements set forth in the Baltimore County Zoning regulations governing the granting of variances: and

3. The decision below is both illegal and arbitrary and capricious because the conclusions stated therein are unsupported by the Board's findings of fact; and

4. The decision is both illegal and arbitrary and capricious because it will result in the overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public; and

5. The decision is both illegal and arbitrary and capricious because it will further contribute to water quality problems in Sue Creek and result in environmental degradation in the Critical Area.

WHEREFORE, Appellants ask that the decision below be reversed.

Melinda A. Rubin*

02 NOV 22 P3:16

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022 or 2147

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of September, 1991, a copy of the foregoing Petition of Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221, Attorney for Appellee.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 13, 1991

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan, P.A.
814 Eastern Boulevard
Essex, Maryland 21221

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Gontrum:

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,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Charles N. Anderson, Jr.
P. David Fields
Patrick Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 13, 1991

Scott Burns, Esquire
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Burns:

In accordance with Rule B-7(a) 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 appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of 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 same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Melinda A. Rubin, Student Attorney
Eric Arciaga, et al
People's Counsel for Baltimore County

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY/ERIC ARCIAGA, ET AL, PLAINTIFFS ZONING CASE NO. 88-107-SPHA	*	CG Doc. No. 2 Folio No. 1 File No. 91-CV-4169

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr. and Lynn B. Moreland, 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, Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Plaintiffs; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Plaintiffs; John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Defendant; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Defendant; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office

Building, 111 W. Chesapeake Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Plaintiffs; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Plaintiffs; John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Defendant; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Defendant; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204 on this 13th day of September, 1991.

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	Docket No. 2 Folio No. 1 File No. 91-CV-4169

ORDER FOR APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, Robert Christopher, by their attorneys, and People's Counsel for Baltimore County, pursuant to Rule B2 of the Maryland Rules, hereby appeal the Opinion and Order of Baltimore County Board of Appeals entered in this case on August 15, 1991

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for
Baltimore County

Melinda A. Rubin*

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Scott Burns

SEP 13 AM 10:35

People's Counsel
Room 304, County Office Bldg.
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887 - 2188

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Individual Protestants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 1991, a copy of the foregoing Order of Appeal was delivered to the

Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221, Attorney for Appellee.



Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

Form CA4

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

Irene Summers — 887-2660
Civil Assignment Commissioner

Kathy Rushton — 887-2660
Jury Assignments—Civil
General Settlement Conferences

— 887-2661
Non-Jury Assignments—Civil
Special Settlement Conferences

TO:

October 28, 1991

Phyllis Cole Friedman, Esq.

Peter Max Zimmerman, Esq.

Melinda A. Rubin, Esq.
Scott Burns, Esq.

John B. Gontrum, Esq.

County Board of Appeals of Baltimore, Co.

RE: Non-Jury 91-CV-4169 In The Matter of Charles N. Anderson, Jr.

HEARING DATE: Tuesday, January 21, 1992, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 3/4 hr.

Please see the below notations.

91 OCT 31 PM 12:05

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.

If the above Hearing 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 PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement if 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.

CHARLES N. ANDERSON, JR.
NW/cor Holly Neck & Baltimore Yacht Club Roads (2434 Holly Neck Road)
SPH & VAR

88-107-SPHA
15th Election District
5th Councilmanic District

June 21, 1990	Petitions filed by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr. for a Special Hearing to amend site plan #5191-4, to construct storage racks and RTA determination and for Variances for out-of-water boat storage facility 14' from property line and paving and parking variances.
October 23	Order of the Zoning Commissioner GRANTING Petitions with restrictions.
November 21	Notice of Appeal received from People's Counsel for Baltimore County.
July 31, 1991	Hearing before the Board of Appeals.
August 15	Opinion and Order of the Board GRANTING the Petitions with restrictions.
September 13	Order for Appeal filed in the Circuit Court for Baltimore County by the Office of People's Counsel for Baltimore County and Melinda A. Rubin, Student Attorney and Scott Burns, Esquire on behalf of Regina Beasman, et al, Protestants.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by Melinda A. Rubin, Student Attorney and Scott Burns, Esquire.
September 13	Certificate of Notice sent to interested parties.
September 25	Cross-Appeal filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr.; Petition to accompany appeal also filed.
September 26	Certificate of Notice sent to interested parties.
October 15	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court for Baltimore County.
April 1, 1992	Order of the CCt,BCo REVERSING C.B. of A. (Hon. Barbara K. Howe)
June 30	Notice of Appeal to Court of Special Appeals filed by John B. Gontrum, Esquire on behalf of Petitioner.

215, footnote 6. It does not support remand in cases, like the one at bar, where an agency has made findings of fact but a party seeks to have them **changed**. In the instant case, the Board of Appeals made findings of fact based on the evidence presented below. Those findings did not support the Board's decision and as a consequence this Court properly reversed the decision below.

Moreover, the facts in Patuxent Valley differ significantly from those in the present case. In Patuxent Valley, the Court of Appeals was asked to decide whether agency officials could be required to sit for deposition in an action for judicial review of the agency's decision. 300 Md. at 203. The Court, in dicta, suggested that in cases where additional findings of fact were **necessary**, that remand **was preferable to court ordered depositions** of agency officials. The holding in Patuxent Valley is thus quite narrow, and can not be read in a way that supports Appellee's request.

Similarly, Section 604 of the Baltimore County Charter does not support Appellee's request for remand in this case. That section simply provides that the Circuit Court may modify or reverse a decision of the Board of Appeals, **with or without remand**, if the decision is not in accordance with the law and as justice may require. Baltimore County Code,

April 13, 1993	JE	REMANDED to Circuit Court by CSA for remand to CBA pursuant to Court of Special Appeals Opinion.
May 6	JE	REMANDED to CBA by Circuit Court (Judge Barbara Kerr Howe) for further proceedings consistent with opinion of CSA.



MANDATE

Court of Special Appeals

Maryland Relay Service
1-800-735-2258
TT/VOICE

No. 1314, September Term, 1992

Charles N. Anderson, Jr.
v.
Baltimore County, Maryland et al.

JUDGMENT: April 23, 1993: Per Curiam filed. Judgment vacated; case remanded to the Circuit Court for Baltimore County, with instructions to remand to the Board of Appeals of Baltimore County for further proceedings consistent with this opinion. One-half of costs to be paid by appellant and one-half of costs to be paid by appellees.

May 24, 1993: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
91CV4169

Record.....		50.00
Stenographer Costs.....		100.00
	* Total *	150.00 *

In Court of Special Appeals:

Filing Record on Appeal.....		50.00
Printing Brief for Appellant.....		205.20
Portion of Record Extract--Appellant....		1242.00
	* Total *	1497.20 *
Printing Brief for Appellee.....		75.60
	* Total *	75.60 *

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals this twenty-fourth day of May *A.D. 19* 93

Sedie D. Baker

Clerk of the Court of Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF
APPLICATION OF
CHARLES N. ANDERSON, JR.
_____/

CASE NO. 91-CV-4169

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
(Excerpt - Opinion of the Court)

Monday, June 1, 1992
Towson, Maryland

BEFORE:

THE HONORABLE BARBARA KERR HOWE, Associate Judge

APPEARANCES:

For the Petitioner:

JOHN B. GONTRUM, ESQUIRE

For the Respondent:

PETER MAX ZIMMERMAN, ESQUIRE

Reported by:
Janet A. Brown, R.P.R.
Official Court Reporter
County Courts Building
Towson, Maryland 21204

continue to operate under his currently existing special exception; is that correct, Mr. Gontrum?

MR. GONTRUM: Yes, your Honor. I, I don't think this has the fact of denying special --

THE COURT: Right.

MR. GONTRUM: -- exception.

THE COURT: It just denies his request to amend the special exception which he currently has. So I deny the Motion to Alter, Amend and/or Revise Judgment.

MR. ZIMMERMAN: Will the Court enter a --

THE COURT: It'll be entered today.

MR. ZIMMERMAN: Okay. So there's no need for an order?

THE COURT: No.

MR. ZIMMERMAN: Okay.

MR. GONTRUM: All right. Thank you, your Honor.

MR. ZIMMERMAN: Thank you.

(The hearing was concluded at 11:18 a.m.)

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

RECEIVED
COUNTY BOARD OF APPEALS
93 AUG 12 PM 12:44

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

August 12, 1993

William T. Hackett, Chairman
County Board of Appeals
Room 49, Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: Charles N. Anderson, Jr.,
Petitioner - #88-107-SPHA

Dear Chairman Hackett:

This case comes back to the Board upon remand from the Court of Special Appeals of Maryland, and via the Circuit Court for Baltimore County. Under the circumstances, we are requesting a hearing so that there is a proper opportunity to be heard on the next phase of this case.

There are a number of issues to be considered:

1. The Court of Special Appeals remand to the County Board of Appeals for further evaluation of the decision.

2. The impact of Bill 149-92, which involves comprehensive new legislation on the zoning of marinas and boatyards, and comprehensive new regulation. Among other things, the new law restricts stacking to three high. See BCZR 417.7.

3. The Board Opinion in this case dated August 15, 1991 was signed by Chairman Hackett, Mr. Harry Buchheister and Ms. Lynn Moreland. The last-named member is no longer with the Board. The question, therefore, is presented as to whether the Board may proceed with two members, and if not, the consequences of such inability.

All of these matters appear to be relevant upon consideration of the remand, in view of the current status of the law and the composition of the County Board of Appeals.

EXCERPT OF PROCEEDINGS

THE COURT: All right. I looked carefully at the Motion to Alter, Amend and/or Revise Judgment, listen to the arguments of counsel this morning. I know that Mr. Gontrum, on behalf of the Petitioner, is arguing ambiguity, but I don't find an ambiguity in the opinion that I read from the Board of Appeals.

Mr. Gontrum argues, additionally, that there are incomplete findings of fact, because the site plan was never offer to the Board with three racks proposed, only with the four racks and, in addition, concedes that there were not any findings of fact made with the granting of the variances in the case. They were just simply granted.

I understand, as well, that the landowner, Mr. Anderson, is also very concern because he believes that will be 18, an 18-month time period will run before a new special exception request can be finally considered by the Board of Appeals. But under the whole state of this case, I cannot find adequate grounds to remand this case to the Board of Appeals. Its decision is what it is, and I believe that the action that it took is illegal.

Now, having said all that, I'm very concerned here as to what the practical effect is going to be to Mr. Anderson, what the effect of his current and existing special exception is. Without knowing otherwise, I would assume that he can

William T. Hackett, Chairman
County Board of Appeals

August 12, 1993

Additionally, please set this matter in for review at a time convenient to the Board and the parties.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

cc: John B. Gontrum, Esquire
Scott Burns, Esquire
Mr. Robert H. Christopher

PMZ:sh

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

February 13, 2001

John B. Gontrum, Esquire
ROMADKA, GONTRUM & MCLAUGHLIN
814 Eastern Boulevard
Baltimore, MD 21221

Peter Max Zimmerman, People's Counsel
for Baltimore County
Room 47, Old Courthouse
Towson, MD 21204

RE: In the Matter of Charles N Anderson, Jr. -Petitioner
Case No. 88-107-SPHA /On Remand to the Board

Dear Counsel:

The Board of Appeals has been reviewing its docket, particularly with reference to inactive cases. By this review, the Board intends to dismiss and close as many of these cases as possible.

Pursuant to the above intent, the purpose of this letter is to advise you that an Order of Dismissal for lack of prosecution will be entered in the above-captioned matter after the expiration of 30 days from the date of this Notice. Upon receipt of a request filed at any time before 30 days after date of this Notice, the Board, for good cause, may defer entry of the Order of Dismissal for the period and on the terms it deems proper.

Very truly yours,

Kathleen C. Bianco
Administrator

cc: Rena Steinzor, Esquire
Director of Environmental Law Clinic, U of M
Virginia W. Barnhart, County Attorney

FEB 15 2001

Printed with Soybean Ink
on Recycled Paper

ROMADKA, GONTRUM & McLAUGHLIN, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

01 FEB 22 PM 12:25

February 19, 2001

Kathleen C. Bianco
Administrator
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: In the Matter of Charles N. Anderson, Jr. - Petitioner
Case No. 88-107-SPHA/On Remand to the Board

Dear Ms. Bianco:

I am enclosing a copy of a letter that you sent me dated February 13, 2001 regarding the above captioned matter.

Please be advised that I no longer represent Mr. Anderson with regard to the above captioned matter.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

John B. Gontrum

JBG/jmh
Enclosure

cc: Charles N. Anderson, Jr. - Petitioner
William Bafitis - Engineer

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

706-2022

Writer's No.

April 27, 1994

Baltimore County Board of Appeals
Room 49, Old Courthouse
Toswon, MD 21204

Re: Change of Counsel for Virginia Beasman, et. al.
In the matter of: Charles N. Anderson, Jr. v. People's Counsel of Baltimore County
Court of Special Appeals, No. 1314, Sept. Term 1992
Circuit Court, Baltimore County 91CV4169

To the Board of Appeals:

This letter is to notify you that ~~Scott Burns~~ is no longer with the University of Maryland Environmental Law Clinic and should be replaced as counsel of record for Regina Beasman, et. al. in the above-referenced matter. The new Director of the Environmental Law Clinic is Rena Steinzor; however, as Ms. Steinzor has not yet been admitted to the Bar of Maryland, we ask that you substitute Michael Millemann as counsel of record.

Ms. Steinzor will be the counsel of record as soon as she is admitted to the bar. Until that time, however, we ask that copies of all court-related correspondence be sent to :

Michael Milleman, Esq.
University of Maryland Law Clinic
510 W. Baltimore Street
Baltimore, MD 21201
(410) 706-8340

If you have any questions, please contact Rena Steinzor at (410) 706-0564. Thank you for your assistance.

Sincerely,

Kathleen C. Murphy

Kathleen C. Murphy
Student Attorney*

RECEIVED
COUNTY BOARD OF APPEALS
94 APR 29 PM 1:31

cc: Bob Christopher
Peter Max Zimmerman, People's Counsel for Baltimore County
John Gontrum, Esq.

* Practicing pursuant to Rule 16 of the Maryland Rules Governing Admission to the Bar.

510 West Baltimore Street
Baltimore, Maryland 21201-1786
410 706 8036 TDD ONLY
410 706 5856 FAX

Entrance: 500 West Baltimore Street

Attorneys
Barbara L. Bezdek
Richard C. Boldt
Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Stanley S. Herr
Sherrilyn A. Ifill
Susan P. Leviton
Mary Helen McNeal
Michael A. Millemann
Richard L. North
Joan L. O'Sullivan
Beth Pepper
Rena I. Steinzor
Deborah J. Weimer
Roger C. Wolf
Syd Ford, LCSW-C
Shirley M. Appelt, Administrator

Article VI, Section 604. Because the Board of Appeals' ruling in this case was plainly inconsistent with their findings of fact, this Court correctly reversed the decision below. The interests of justice would not be served by an order to remand in this case. To the contrary, a remand in this case would only waste the resources of the parties, the Board, and this Court. Because the decision below was plainly incorrect as a matter of law, reversal rather than remand was the proper remedy. This Court's decision should thus be permitted to stand.

APPELLEES REQUEST THAT THIS CASE BE REMANDED FOR FURTHER FINDINGS OF FACT IS IMPROPER

As stated above, the inconsistency between the Board's decision and its findings of fact is obvious. There is no need to "clarify" this inconsistency, as Appellee requests. Opposing counsel is really asking that this case be remanded for the purpose of allowing the Board to make **new** findings of fact.

However, as this Court implicitly held in its decision, the Board's findings of fact were supported by substantial evidence in the record below. See, Appellants' Memorandum of Law Requesting Reversal of the Baltimore County Board of Appeals Decision, filed herein November 14, 1991, at 4-5, 7-

85-107 SPHA

Exhibits PAGE 1 of 3

Petitioner

1. 1961 Site Plan "Sun Creek Marina, Inc." 1/24/61

2. Ltr. Haines from Sheesley 9/15/87 (4 pgs)

3. ~~Site~~ Plan "Jenkins North Marina" last revision date 3/21/89

4. Site Plan "Sun Marine" last revision date 8/2/90

~~5. Hearings Report - Sheesley to Haines~~

5. Final Landscape Plan for Anderson Brothers Boat Sales sealed by Office of Planning + Zoning 7/12/91

6. Inter-Office Correspondence from Sheesley to Haines 8/14/89

7. Site Plan - Anderson Brothers Boat Sales formerly Jenkins North Marina - final revision date 8/31/89

(over)

8. Cross-Section drawing of proposed racks, landscaping, etc.

9. Ltr. to Jenkins from Schneider, PE 8/2/88

10. Plat To Accompany Petition For Special Hearing To Amend Special Exception and To Approve Parking and Variance - final revision date 4/11/90

~~11. CRG - Plans and comments 6/27/91~~
~~a. C.R.G. Plans~~
~~b. Comments~~

11. Photographs of similar operation of racks storage
a. } boat being placed in water
b. }
c. } launching operation
d. }
e. fork lift
f. framework on launch well
g. building + fork lift
h. interior storage w/ boats
i. boats in racks
j. boat on fork lift

12 Photographs
a. aerial - marina
b. " " w/ racks
c. long aerial "
d. very long aerial, marina
e. direct overhead, marina
f. Holly Neck Rd / marina

13. Photographs
a. Johnson house
b. subject site
c. w on Holly Neck Road
d. fire hydrant
e. "
f. boat store on site
g. w on Holly Neck to site
h. Hansen house
i. piers on site
j. composite - racks + pier
k. composite - play area + trailers
l. on-site driveway
m. two boat racks on-site
n. boat racks + trailered boats
o. view from water line

14. a. Rental Contract 4/1/91
b. Marina Rules + Conditions 1/15/91

15. JC file

88-107

Exhibits (cont'd)

People's Counsel

1. Photographic Map 1"-200' scale "Holly Neck" 1/86. As marked by People's Counsel
2. Office of Assessments Inquiry 12/16/88
3. ~~In closet - Cardboard 14" x 33" exhibit~~ Map of boat count 7/25/91 prepared by witness Beaman
4. Photographs
   a. Vandermast area of Sue Creek
   b. Sue Creek - no vegetation
   c. " " "
   d. Bobel Property
   e. Beaman boat
5. Petition - 18 signatures
6. Photographs
   a. centerline Holly Neck - boat racks
   b. subject site w/ store
   c. " " " "
   d. subject site driveway w/ racks
   e. across Holly Neck Rd to entrance
   f. fence w/ foliage
   g. sighting down Holly Neck Rd.
   h. fence w/ foliage & racks
   i. " " " "

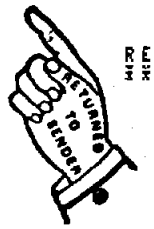
(over)

6. j Holly Neck Rd w/ speed limit signs
k. close-up of fence, foliage + rock

7. Photograph - Chesapeake Bay Protection Area sign
8. Photographs - 11/90 from water of subject site
9. List of Protestants

unty Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

Return Service Requested



RETURN SERVICE REQUESTED

Karen L. Plumer, Esquire
~~Woodmere I, Suite 400~~
~~9881 Broken Land Parkway~~
~~Columbia, MD 21046~~



~~Please Forward To:~~
942 Waterview Drive
Crownsville, MD 21032

APPEAL

Petition for Special Hearing and Zoning Variance
NW/Corner Holly ~~Back~~ Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District - 5th Councilmanic District
CHARLES N. ANDERSON, JR. - Petitioner
Case No. 88-107-SPHA

√ Petitions for Special Hearing and Zoning Variance

√ Description of Property

√ Certificate of Posting

√ Certificate of Publication

√ Entry of Appearance of People's Counsel

√ Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (NONE submitted)

Petitioner's Exhibits:
√ 1. Copy of Plan - Sun Marine
√ 2. Photos of Docks
√ 3. Plat approved by OPZ (Case No. 5191)
√ 4A. - 4D. - Comment Report from DEPRM (1987)
√ 5. Plat to accompany Petitions (Sheet 1 of 2)
√ 6. Plat to accompany Petitions (Sheet 2 of 2)
√ 7. Comment Report from DEPRM (1989)
√ 8. Plat to accompany Petitions (Sheet 1 of 2)
√ 9. Plan - Sun Marine
√ 10. 6 Photos of marina
√ 11. Several Photos of marina

Protestant's Exhibits:
√ 1. 11 Photos of marina area

√ Zoning Commissioner's Order dated October 23, 1990 (Granted with restrictions)

√ Notice of Appeal received November 21, 1990 from People's Counsel

cc: Charles N. Anderson, Jr. - 2904 Mountain Road, Pasadena, MD 21122

John B. Gontrum - 814 Eastern Boulevard, Baltimore, MD 21221

Albert R. Anderson - ~~1249 Evergreen Road~~, Baltimore, MD 21221 not a good address 5/13/91

Eric J. and Antonia M. Arciaga
2501 Holly Neck Road, Baltimore, MD 21221 √√√√

* People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Copy of Opinion to Jae Kolarn

Request Notification: David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

4/28/94 →
MAILED OUT
FILE & EXHIBITS

- JOHN - SUPERVISOR
- KRISTEN MAILED OUT 4-28-94

(FILE RET'D TO OCT FROM CSA 6/93)

2/28/96 pee : K. MILTON / EADM

BILL BAFITIS:

TO NOTIFY CBA OF INTENTIONS TO WITHDRAW/ABANDON THIS CASE (SUBMITTING PLAN UNDER NEW REGULATIONS IN EADM)

#391-7336

CALL JOHN GONTRUM

684-8274

9. The Board heard testimony that included numerous references to overcrowding and congestion of roads, the dangers to swimmers presented by existing boat traffic in Sue Creek, and the high levels of bacteria already found in adjacent waters. Based upon this testimony, the Board found that the proposed project would adversely impact the health, safety, and general welfare of the public and further stress the Critical Area and Sue Creek. Because the findings of fact below were supported by substantial evidence, a remand for new fact finding would not comport with the relevant authority.[1] See, Supervisor of Assessments v Ely, 272 Md. 77, 321 A. 2d 166 (1974). Accordingly, Appellee's motion should be denied.

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[1] If the Board of Appeals **did** reverse its findings of fact in this case, its decision would be arbitrary, and a violation of the Maryland Administrative Procedures Act. In Montgomery County v Anastasi, 77 Md. App. 126, 549 A.2d 753 (1988), the Court of Special Appeals held that an agency that rendered opposite decisions based on indistinguishable facts had acted in an arbitrary manner. See Anastasi supra at 138-139, See generally, Md [State Govt.] Ann. Code § 10-215(g)(3)(vi).

CASE NO. 91-CV-4169

IN THE MATTER OF CHARLES N. ANDERSON, JR.

V.

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE & EXHIBITS.

Tom Hall
Clerk's Office

Date: 10/15/91

CONCLUSION

For the above reasons, Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, through their attorneys, request that this court deny the motion to alter, amend, and/or revise the judgment in this case.

Respectfully submitted,



Kenda Layne*



Scott Burns
University of Maryland
Clinical Law Office
500 West Baltimore Street
Baltimore, Maryland 21201
Attorneys for Appellants

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 1992, a copy of the foregoing Memorandum was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; Phyllis Cole Freidman, People's Counsel For Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and John B. Gontrum, Esquire, Romadka, Gontrum, and Hennegan, 814 Eastern Boulevard, Essex, Maryland 21221.

Kenda Layne*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE	*	IN THE
APPLICATION OF	*	
CHARLES N. ANDERSON, JR.	*	CIRCUIT COURT
FOR A SPECIAL HEARING TO AMEND	*	
A SPECIAL EXCEPTION AND VARIANCES	*	FOR
ON PROPERTY LOCATED ON THE	*	
NORTHWEST CORNER OF HOLLY NECK RD.	*	BALTIMORE COUNTY
AND BALTIMORE YACHT CLUB RD.	*	
	*	Case No. 91CV4169

* *

ORDER

This court on this _____ day of _____ in the year 1992, denies the Motion to Alter, Amend, and/or Revise the Judgment submitted by Appellee.

_____

JUDGE

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. 328-2147

January 15, 1992

Circuit Court for Baltimore County
Office of the Clerk
County Court Building
P.O. Box 6754
Towson, Maryland 21285-6754

RE: In the Matter of the Application
of Charles N. Anderson, Jr.,
Case No. 91CV4169

Dear Sir:

Enclosed for filing in the above referenced case please find Appellants' Reply Memorandum and Response to Appellee's Memorandum on Cross Appeal.

Thank you for your attention to this matter.

Sincerely,

Scott Burns

92 JAN 17 P12:30

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

Attorneys
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Richard C. Boldt
Scott Burns
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Karen Czapanskiy
Jerome E. Deise
Marc Feldman
Theresa Glennon
Stanley S. Herr
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Roger C. Wolf
Shirley M. Appelt, Administrator

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

April 18, 2002

Mr. Charles N. Anderson, Jr.
2904 Mountain Road
Pasadena, MD 21122

RE: *In the Matter of: Charles N. Anderson, Jr.*
Case No. 88-107-SPHA /Order of Dismissal

Dear Mr. Anderson:

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

Very truly yours,

Kathleen C. Bianco/tks

Kathleen C. Bianco
Administrator

Enclosure

c: Rena Steinzor, Esquire
Director of Environmental Law Clinic, U of M
Eric J. and Antonia M. Arciaga
Office of People's Counsel
Pat Keller, Director /Planning
Lawrence E. Schmidt, Zoning Commissioner
Arnold Jablon, Director /PDM

Printed with Soybean Ink on Recycled Paper

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB RD. (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT; 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 91CV4169

* *

APPELLANTS' REPLY MEMORANDUM
AND RESPONSE TO APPELLEE'S MEMORANDUM
ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, Appellants, by their attorneys, submit the following Reply Memorandum and Response to Appellee's Memorandum on Cross-Appeal.

I. INTRODUCTION

This is an appeal from the decision of the Baltimore County Board of Appeals, granting the Appellee's request for out-of-water boat storage racks at his marina on Sue Creek, a tributary of Middle River. The appellants in this case are neighborhood families who are concerned that the proposed expansion of th marina will exacerbate further the environmental degradation currently plaguing Sue Creek and adversely affect the quality of their community.

Appellants filed a memorandum of law in the instant case on November 14, 1991, requesting reversal of the Board of Appeals decision. In that memorandum appellants argued that the Board's decision was contrary to its own findings of fact, citing People's Counsel v. Mockard, 73 Md. App. 340, 349, 533 A. 2d 1344 (1987). In addition, appellants argued that the decision below

failed to comport with the standards governing the granting of special exceptions and variances.

In addition to responding to appellants' memorandum, Charles N. Anderson, owner of the parcel of land that is the subject of this dispute, has filed a cross-appeal arguing that Board erred in imposing limits on the number of new boat racks and parking spaces requested for appellee's marina. In both pleadings, appellee essentially contends that: (1) the Board's findings that the proposed marina expansion would "adversely impact the health, safety and general welfare of the public" (Opinion at 7-8) and "further stress the Critical Area and Sue Creek" (Opinion at 8) are not supported by substantial evidence in the record, and (2) that the Board's decision to limit the scope of Appellee's proposed expansion was similarly unsupported by substantial evidence. For the reasons set forth below neither of these arguments has merit. In addition, for the reasons set forth in Appellants' memorandum of November 14, 1991, which Appellants incorporate by reference herein, the decision below is unsupported by the Board's own findings of fact and fails to comport with the legal standards governing the granting of special exceptions and variances. For these reasons it should be reversed.

II. ARGUMENT

A. THE BOARD'S FINDINGS THAT THE PROPOSED PROJECT WILL ADVERSELY IMPACT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PUBLIC, AND FURTHER STRESS THE CRITICAL AREA AND SUE CREEK, ARE SUPPORTED BY SUBSTANTIAL EVIDENCE

After reviewing the testimony and evidence offered below, the Board of Appeals found that the proposed project would adversely affect the health, safety, and general welfare of the public and further stress the critical area and Sue Creek. Opinion at 8. These factual findings are amply supported by the testimony of witnesses who appeared before the Board. See, Appellants' Memorandum of Law Requesting Reversal of the BAltimore County Board of Appeals' Decision, filed herein November 14, 1991, at 4-5, 7-9. This testimony included numerous references to the existing overcrowding and congestion of roads, the danger to swimmers presented by existing boat traffic on Sue Creek, and to the high levels of bacteria already found in Sue Creek. It is hardly surprising that the Board found that these already problematic conditions would be further exacerbated by Appellee's proposed project. An agency's factual findings must be upheld when there exists "such relevant evidence as a reasonable mind might exist as adequate to support a conclusion." Bulluck v. Belhane Wood Apartments, 283 Md. 505, 390 A. 2d 1119 (1978). Appellants submit that the Board's factual findings regarding the adverse effect of the proposed project on the local community and environment are supported by substantial evidence and, as a consequence, must be upheld.

B. THE DECISION OF THE BOARD OF APPEALS TO GRANT THE SPECIAL EXCEPTION AND VARIANCES WAS CONTRARY TO ITS OWN FINDINGS OF FACT.

As discussed above, Appellants do not take issue with the

factual determinations of the Board of Appeals. We believ the Board's findings that the proposed project would harm the interests of the surrounding community and adversely affect Su Creek are correct.

However, as discussed in our earlier memorandum, we believe the Board committed clear error in applying the relevant law to the facts of this case. As the Court of Special Appeals noted in People's Counsel v. Mockard, supra, a reviewing court may not uphold an "agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency." In the instant case the Board of Appeals granted the requested special exception and variance **despite** finding that the proposed marina expansion would cause overcrowding, further stress Sue Creek, and adversely affect the public's health and safety.

We believe that, given the Board's findings of fact, the proposed project fails as a matter of law to meet the requirements governing the granting of special exceptions and variances in Baltimore County. A special exception may not be granted if it "is detrimental to the health, safety or general welfare." Baltimore County Zoning Regulations, Section 502.1, See, Levy et al v. Seven Slade, Inc., 234 Md. 145, 198 A. 2d 267 (1964). Similarly, a variance may not be granted in this case if it would interfere with the public safety and welfare. See, McLean v. Soley, 270 Md. 208, 310 A. 2d 783 (1973). Having specifically found that Appellee's proposed project would adversely impact the public welfare, the Board was bound as a matter of law to deny the requested special exception and

variance. See, Levy, supra, Mclean, supra, See, generally, Appellants' Memorandum of Law Requesting Reversal of the Baltimore County Board of Appeals' Decision, filed herein November 14, 1991, at 3-10.

C. STANDARD OF REVIEW

The standard of review to be applied in reviewing the Board's decision is set forth in the Section 10-215 of the Maryland Administrative Procedure Act, MD [STATE GOV'T] ANN CODE § 10-215. That provision requires the circuit court to "reverse or modify the decision if any substantial right of the of the petitioner may have been prejudiced because a finding, conclusion or decision of the agency . . . . (iv) is affected by any ... error of law, or ... (vi) is arbitrary or capricious." MD [STATE GOV'T] ANN CODE §10-215(g) (1984). For the reasons set forth above, and in Appellants' earlier memorandum, the decision below must be reversed because of its inconsistency with the Board of Appeal's own findings of fact and the law governing special exceptions and variances in Baltimore County.

Respectfully submitted,

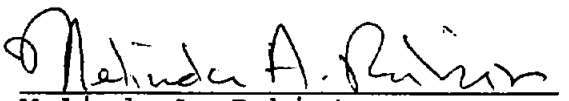
Melinda A. Rubin*

Kenda Layne*

Scott Burns
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21202
(410) 328 - 2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of January, 1992, a copy of this Memorandum was mailed, postage prepaid, to the Administrative Secretary, County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204; and John B. Gontrum, Attorney for Appellee, 814 Eastern Blvd., Baltimore, MD 21221.



Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTH-WEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91-CV4169

** **

STIPULATION

IT IS HEREBY agreed by JOHN B. GONTRUM, Attorney for Appellees, that the time allowed to file the answer to Memorandum of Cross-Appellants, Charles N. Anderson, Jr. pursuant to Maryland Rule B12 is extended to Wednesday, January 15, 1992.

Attorneys for Appellants

Melinda A. Rubin*

Kenda Layne*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

91 DEC 20 AM 11:44

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of December, 1991, a copy of this Stipulation was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; Phyllis Cole Friedman, People's Counsel For Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, 814 Eastern Boulevard, Essex, Maryland 21221.

Melinda Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB RD. (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT; 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 91CV4169

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

MEMORANDUM OF CROSS-APPELLANTS, CHARLES N. ANDERSON, JR.

STATEMENT OF THE CASE

The subject case commenced on May 7, 1987, with the filing by James Eurice, a predecessor in title to Charles Anderson, the subject property of a Petition for Special Hearing to amend zoning case No. 5191-x to allow construction of a new building and to determine parking requirements and of a Petition for Zoning Variance to permit setbacks of 34 and 58 feet in lieu of the required 50 and 75 feet respectively for the building and to permit stone paving in lieu of the required durable and dust-free surface as interpreted by zoning policy. After review by County agencies for critical area comments the petitions were amended and filed in September, 1989 to reflect no building but racks for boat storage and in lieu of the previous setback variances a variance of 14 feet in lieu of the required 60 feet for boat storage and to allow parking of 147 parking spaces. Additional amendments were required by the Zoning Commissioner to reflect in water boundary lines from adjacent properties.

LAW FIRM

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ESSEX, MARYLAND

The case was heard on September 13, 1990, and an Order was issued by the Zoning Commissioner on October 23, 1990 granting the requested relief. An appeal was taken by People's Counsel for Baltimore County to the County Board of Appeals of Baltimore County (hereinafter referred to as the "Board"), where the case was tried de novo on July 31, 1991. The Board issued its Opinion and Order on August 15, 1991, granting Charles Anderson, Cross-Appellant, (hereinafter referred to as "Petitioner") three (3) of the four (4) racks requested and the requested zoning variances although limiting parking to 125 spaces. From that order appeals were taken by several Protestants, People's Counsel, and by Petitioner in a Cross-Appeal to the Circuit Court for Baltimore County.

STATEMENT OF FACTS

The property subject to these proceedings lies in the eastern part of Baltimore County in an area known as Back River Neck Peninsula at the intersection of Holly Neck Road and Baltimore Yacht Club Road. It consists of approximately five (5) acres. The property is zoned R.C. 5 and B.L. and is considered suitable for limited development under the Chesapeake Bay critical area program adopted by Baltimore County and approved by the State of Maryland. It contains waterfront on Sue Creek, a tributary of Middle River.

In 1961 Charles Januska, a predecessor in title to Mr. Anderson, filed for a special exception for a marina and

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CHARLES N. ANDERSON, JR. 88-107-SPHA

2/28/95 - Per K. Milton /ZADM -- Bill Bafitis to notify the CBA of intentions to withdraw /abandon this case (submitting plan under new regulations in ZADM). 410-391-2336 Awaiting return of Circuit Court file.

Inquiry to Circuit Court as to status of case on remand (file required with transcript and exhibits); per John, Supervisor, the Circuit Court mailed out the file and exhibits (believes to Zoning) on 4/28/94 -- file not located. File returned from CSA to Circuit Court in June 1993.

3/29/95 - T/C to Bill Bafitis re latest status of case -- he wants issue to stay before the Board just the way it is until he calls back in a month (Don Rascoe promised the plan would be moved through within a month).

2/13/96 -T/C to J. Gontrum -- L/M to call me. kcb

2/16/96 -Per J. Gontrum - talk with Mr. Bafitis. Placed call to B. Bafitis on 2/20/96 -- to verify and possible letter withdrawing this petition.

2/13/01 – Letter to Counsel – pursuant to review of pending docket, an Order of Dismissal will be issued in this matter 30 days from date of notice (2/13/01), unless a response is received from either party within that time frame. The dismissal may then be deferred at the discretion of the Board.

2/22/01 –Letter from John Gontrum -- he no longer represents Mr. Anderson in this matter.

2/23/01 – Letter to Charles N. Anderson, Jr. – as per original letter of 2/13/01 – to dismiss after 30 days unless response from either party is received at any time within 30 days.

4/16/02 – No further action in this matter to date; Order of Dismissal for lack of prosecution to be issued.

boatyard. It was granted in Case No. 5191-X, by order dated August 25, 1961. A copy of the approved site plan was filed as Petitioner's Exhibit 1. That site plan reflects the fact that at that time Baltimore County had no zoning regulations that applied strictly to marinas. Regulations pertaining to setbacks for boat storage were not adopted until 1963. Consequently, the approved 1961 site plan calls for a boat ramp and boat storage on the subject property with no setback limitations nor with any limitations as to quantity or method of on-ground boat storage.

Marinas and business enterprises exist all along Holly Neck and Baltimore Yacht Club Roads. As the aerial photographs (Pet. E. 12) indicate, there are numerous adjacent marinas all along the waterfront. As testimony also indicated (Tr. 135-37), there are a couple of restaurants, a manufacturing facility and the Baltimore Yacht Club in addition to the marinas all in the immediate area.

Over the years the site was improved by a showroom and repair facility. No action was taken on the site until 1986 when the then owner of the property James Eurice investigated the possibility of storing boats on bolted rack frames inside a building with access to the boats by way of a forklift in place of piers and the boat ramp.

The initial site plan as revised as of March 21, 1989, indicates a 55,125 square foot building housing four racks four boats high (Pet. E. 3). The building set back 112 feet from th centerline of Holly Neck Road. The building at peak of roof was

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designed to be approximately thirty-seven (37) feet high with metal siding (Pet. E. 3). That site plan, however, and subsequent plans called for significant mitigation to the waterfront area and to the site in view of environmental concerns.

The limited development designation called for by the critical area criteria indicates that no more than fifteen percent (15%) of the site may be comprised of impervious surface and at least fifteen percent (15%) of the site should be forest cover. The site as it existed and exists now is fully developed for boat storage. The waterfront area is fully utilized for parking and storage and covered by impervious crusher run surface. There was even underground storage of gasoline. From the beginning the improvements to the site for water and environmental quality were important to Baltimore County. (Pet. E. 2). Water quality measures were required of Petitioner as part of the review process for the new construction. Upon final approval of the plan much of the waterfront will be returned to its natural state, and the impervious crusher-run surface will have to be removed.

Eventually, the Petition was amended to reflect th four (4) outside racks in place of the building. The plat as revised April 11, 1990, approved by the Zoning Commissioner, shows the final plan before the Board in this Case (Pet. E. 10). That plan along with Petitioner's Exhibits 5, 6, and 7, indicate the extensive work required by the Department of Environmental

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ESSEX, MARYLAND

Protection and Resource Management and the Office of Planning and Zoning with respect to Petitioner's proposal. As the critical area findings all indicate (Pet. E. 6), the request meets or exceeds all zoning and environmental standards.

Petitioner Charles Anderson acquired the property in 1989. His request as approved by the Zoning Commissioner's Order of October 23, 1990, consisted of the amendment to the 1961 zoning order for the revised site plan including the racks and the layout of the site along with the restrictions, the granting of the variance from the paving requirements as recommended by the County departments and not contested in this case, the granting of the setback variance of 14 feet in lieu of the required 60 feet from the Theiss property to the North and the approval of 147 parking spaces.

The setback variances for the original building were caused by the anomaly of the location of the zoning line and building. B.L. zoning does not contain the setback requirements of R.C. 5 zoning. The racks consist of outside storage and pursuant to Baltimore County Zoning Regulations (hereinafter cited as B.C.Z.R.) 417.7 a sixty (60) foot setback is required. That setback was not taken from the rack, but as Petitioner's Exhibit 10 indicates, it was taken from the closest point from boats stored on the rack. No other setback, height, or area variance was requested. Mr. Theiss has never objected to the proposal (Tr. 143) and co-operated in the preparation and signing of Petitioner's Exhibit 4 allocating water usage to the facilities.

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ESSEX, MARYLAND

The other adjacent property owner Mrs. Hensel supported the Petitions and relief requested (Tr. 161).

No criteria exist for parking of cars for on-ground boat storage, but a ratio of one parking space for two slips was established in 1988 while the case was pending. Zoning had a policy dealing with such parking pending adoption of the regulations. That variance was granted by the Zoning Commissioner in his order and modified by the Board in their Order.

Two of the storage racks closest to the Theiss property to the North were placed on the site by Petitioner's predecessor in title in 1988. At that time no development plan review was felt necessary as the racks do not constitute buildings. The Zoning Commissioner's Order, however, stipulated a County Review Group (hereinafter referred to as "C.R.G.") review of the property. A C.R.G. hearing was held in June 27, 1991, and approval was given for the development (Tr. 62-65). No appeal was taken.

DISCUSSION

The only error committed by the Board was its finding that the plan as proposed overcrowded the land and further stressed the critical areas and Sue Creek and its concomitant limitation of the racks allowed to three (3) and the parking to 125 spaces. Petitioner contends that the only competent evidence before the Board permitted the special exception amendment sought by the Petitioner.

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ESSEX, MARYLAND

The request in the Special Hearing was to amend an existing special exception. The existing special exception did not limit in any way the number of boats stored on the property, the kind of storage or the number of cars permitted. There was no allocation of open space, of impervious area, and certainly in those days no restrictions existed for the benefit of water quality. The special hearing provided for all of these things.

In a B.L. zone the regulations require a floor area coverage of up to three times the land area (B.C.Z.R. Sec. 232.5). In an R.C. 5 zone the permitted building coverage is fifteen percent (15%) (B.C.Z.R. Sec. 1A04.3B.4). These are coverages permitted as of right. On the subject property we are talking of a total impervious area coverage of less than fifteen percent (15%) including paved parking, concrete pads, and paving in the streets adjacent to the property as well as building area. The development proposed is within the criteria of the Code. In addition, the development meets with but one exception setbacks for buildings as well as boat storage which setbacks are not even applicable to the existing, approved plan.

The only expert testimony and evidence introduced before the Board and the Zoning Commissioner were all consistent with Petitioner's proposal. There was no expert testimony contradicting the findings of the Department of Environmental Protection and Resource Management. In fact, all that Board had presented to it in opposition to the proposal were generalized statements about how crowded and polluted the waterways had

LAW FIRM
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ESSEX, MARYLAND

become. Those concerns were addressed by Petitioner's proposal.

Petitioner agreed to a limit as to the number of boats stored on the property and thereby agreed to a limit as to the number of boats using the water from his site. The 1961 plan not only had no limit as to the number of boats stored or as to the means of storage but also permitted the trailering of boats and entry by boats into the water by way of a boat ramp. Consequently, day boaters could be accommodated from the site as well as boaters who stored boats on the site.

The proposed plan requires removal of much existing impervious surface and the addition of landscaped areas around the property and at the water's edge. The purpose of the buffers is not purely aesthetic. It is hoped that be converting the area along the water back into a pervious area that runoff from the site will be minimized. Areas have been designated on the plan away from the water for boat cleaning. Restrictions are proposed on boat maintenance, which are not now applicable to the site.

The critical area reviews also indicated approval of on-ground storage as a means of storage superior to in-water storage (Pet. E. 2). These reviews, however, did not stop at the approval of a concept. Over the years as the plan was amended and refined, the County's critical area review process required numerous specific changes to the plan and specific water quality enhancements. The detailed critical area findings plan indicates the extent of the expert review of this project

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

and its impacts on the specific estuary involved in the proceedings.

The in-depth reviews by the County agencies is in no way paralleled by any of Protestants' evidence. The record reveals that Protestants had dropped appeals on zoning requests for in-water slips on the adjacent marina seemingly for reasons unrelated to the environment or congestion on the waterways (Tr. 197-98). Protestants demonstrated confusion as to the number of boats involved in the project (Tr. 207) citing approximately double the number actually requested. Most of the Protestants failed to even read the County comments. Their testimony certainly can not be considered substantial basis for overturning the expert comments of the reviewers of the proposal.

Finally, it should be emphasized that this project has been subject to County review and comment over a four (4) year period. As the Zoning file (Pet. E. 15) indicates, there have been numerous comments filed by every county agency reviewing this project. The project has been reshaped and refined to address concerns, primarily environmental, pertaining to the request.

Under the Baltimore County Code a CRG hearing and plan approval is required for any development. Section 22-39 of the Baltimore County Code in its definition of "development" does not include the construction of structures such as racks or the placement of landscaping on a site as "development". Baltimore

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ESSEX, MARYLAND

County in the past has never included structure construction such as pier construction as requiring C.R.G. approval even if zoning approval was necessary for permits. In this case, however, C.R.G. review was made a condition of the zoning order granting the requested relief. C.R.G. review consisted of a public hearing as well as plan review according to Article IV of Title 22 of the Baltimore County Code. That C.R.G. plan was approved in accord with Petitioner's zoning request. Accordingly, Petitioner has met every zoning and development standard and presented evidence and expert testimony justifying his request.

There simply was no competent testimony and absolutely no exhibits indicating that the request should in any way have been denied. Protestants conceded that the proposed plans may represent an improvement over the existing approved plan from an environmental standpoint (Tr. 214, 244) because of limitations on numbers and the methodology of storage. The safeguards contained in the proposed plan clearly indicate that there will be less usage of the entire site than currently exists, less in-water pollution, less run-off from the site and more open space and "green area" and more control and management over the boats using the waterways with new holding tanks and loading procedures than currently exist on the site.

CONCLUSION

In conclusion we believe that the refusal of the Board to

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grant Petitioner's request for all four (4) racks with the requested 147 parking spaces was not based on substantial evidence in the record and that the relief sought by Petitioner should have been granted in full.

Respectfully submitted,

John B. Gontrum
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Blvd.
Baltimore, MD 21221
(410) 686-8274
Attorney for
Cross-Appellant

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON	*	File #91CV4169
PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND	*	
BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH	*	
ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of November, 1991, a copy of the aforegoing Memorandum of Cross-Appellant was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATAGORY APPEAL

IN THE MATTER OF THE APPLICATION OF
CHARLES N. ANDERSON, JR.
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES
ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF
HOLLY NECK ROAD AND BLATIMORE YACHT CLUB ROAD
(2434 HOLLY NECK ROAD) 15th ELECTION DISTRICT
15TH COUNCILMANIC DISTRICT
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Protestant
REGINA BEASMAN,
VIRGINIA BRINKMAN,
ERIC ARCIAGA,
KENNETH R. JOHNSON and
ROBERT CHRISTOPHER Appellants

CIVIL ASSIGNMENT

ATTORNEYS

Phyllis Cole Friedman
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People's Counsel, Rm 304, Co Office Bldg, 111 W Chesapeake Ave (4)

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(atty for Char. N. Anderson, Jr.)

CV GEN COSTS 914169 M
CV CLK 80.00
B LERY 10.00
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(1) Sept 14, 1991 - Appellant's Order for Appeal from the Opinion and Order of the Balto Co Bd of Appeals fd.

(2) Sept. 13,1991 - Certificate of Notice, fd.

3) Sept 23, 1991 - Protestant's PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Petition on Appeal fd.

4) Sept 23, 1991 - Appellants' Petition for Appeal fd.

4a) Sep 25, 1991 Petition of Charles N. Anderson, Jr. for Order on Cross Appeal, fd.

5) Sept. 26, 1991 - Certificate of Notice, fd.

6) Oct 7, 1991 People's Counsel for Balto. County in answer to petition on cross appeal, fd.

7) Sep 25, 1991 Petition of Charles N. Anderson, Jr. on Cross Appeal, fd.

(8) Oct. 15, 1991 - Transcript of Record fd.

(9) Oct. 15, 1991 - Notice of Filing of Record fd. Copies Sent.

(10) Oct 17,1991 Answer of Charles N. Anderson, Jr to Petition on Appeal of Regina Beasman,fd.

(11) Oct 17,1991 Answer of Charles N., Anderson to Petition on Appeal of Peoples Counsel for Baltimore County,fd.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * * * *	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO. 88-107-SPHA

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

APPELLANTS' MEMORANDUM OF LAW
REQUESTING THE REVERSAL OF THE
BALTIMORE COUNTY BOARD OF APPEALS' DECISION

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, Appellants, by their attorneys hereby submit the following Memorandum of Law requesting the reversal of the decision rendered in the above captioned case by the Baltimore County Board of Appeals.

INTRODUCTION

This is an appeal from the decision of the Baltimore County Board of Appeals, granting the Appellee's request for out-of-water boat storage racks at his marina on Sue Creek, a tributary of Middle River. On August 15, 1991, the Baltimore County Board of Appeals granted with restrictions appellee's request for additional boat racks and parking spaces as proposed by Amended Site Plan 5191-4. The Board also granted appellee's request for a variance so that the requested out-of-water storage facility could be located 14 feet from the property line in lieu of the 60

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foot statutory requirement. The amended plan provided for storage of an additional 384 boats and called for an additional 147 parking spaces.

The site is located in a residential/marine commercial area. A two-lane road (Holly Neck Road) currently provides access to the site.

A special exception permitting marine commercial use was granted to the previous owner of the site in 1961. Since then, there have been significant changes in Sue Creek. Long time residents of the surrounding community have noticed that th water quality has deteriorated as boat traffic in Sue Creek's narrow channels has increased.

Neighbors have expressed concern over the proposed expansion of Appellee's marina. They believe that additional boats will add to existing traffic congestion in the creek and on the narrow two lane road that serves the marina, exacerbate pollution in and around Sue Creek, and expose residents to increased fire risks due to the augmented congestion.

Several neighbors testified at the Board's hearing and expressed these concerns. They also attested to the increase in boating accidents, the health effects associated with the rising bacteria level in Sue Creek, and the community and site's inaccessibility to emergency response equipment.

Based upon the testimony recited above, the Board concluded that the amendment to the special exception and the variance would harm the environment and the health, safety, and welfare of the public. (Opinion at 8). The Board specifically stated that the amended plan " . . . would cause overcrowding of the land and public facilities and adversely impact the health, safety, and general welfare of the public." (Opinion at 8).

Despite the above findings of fact, the Board granted the appellee's amendment to the pre-existing special exception and the variance. In doing so, the Board not only failed to comply with the Baltimore County Zoning regulations, but acted arbitrarily, capriciously, and illegally. For these reasons, this Court should reverse the decision rendered by the Board.

ARGUMENT

THE BOARD'S DECISION IN THIS CASE IS NOT SUSTAINABLE ON THE AGENCY'S FINDINGS.

A. The Board's Decision Below is Contrary To Its Own Findings and Must be Reversed.

Numerous cases cite and quote the standard of review to be applied to decisions from administrative agencies. In Bd of Educ. of Montgomery County v. Milton A. Paynter et al., 303 MD. 22; 491 A.2d 1186 (1984), the Court of Appeals stated that "the

court reviewing a final decision of an administrative agency shall determine the legality of the decision and whether there was substantial evidence from the record as a whole to support the decision." This same court defined "substantial evidence" as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." See Bulluck v. Belhane Wood Apartments,283 Md. 505, 390 A.2d 1119 (1978).

The Court of Appeals also stated in People's Counsel v. Mockard, 73 Md. App. 340,349, 533 A.2d 1344 (1987) that a court may not uphold an "agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

The Board's decision is not sustainable on the findings of fact. In the present case, the Board found that the amended plan would cause overcrowding, stress the Critical Areas and Sue Creek, and affect the public's health, safety, and welfare. Opinion at 8. The Board specifically stated that the amended plan " . . . would cause overcrowding of the land and public facilities and adversely impact the health, safety, and general welfare of the public." Opinion at 8.

Clearly, the Board based its finding on the testimony it received from the neighbors surrounding the site. These neighbors testified about their concerns for their health, safety, and welfare. Specifically, the neighbors attested to the increased number of boating accidents, pollution, and fire risks presented by the amended plan. The neighbors also attested to the overcrowding and congestion of the roads. See generally

Record at 178-246. Th appellee presented little evidence to contradict the testimony of these witnesses.

In a nutshell, the Board's decision in this case to grant the requested variance and special exception is plainly inconsistent with its finding of fact that the proposed marina expansion would adversely affect the public's health, safety and general welfare. Because the Board's decision can not be squared with its own findings of fact, the decision below is incorrect as a matter of law and must be overturned.

II. THE BOARD FAILED TO COMPORT WITH STANDARDS GOVERNING THE GRANTING OF SPECIAL EXCEPTIONS AND VARIANCES.

A) The Standards Governing Special Exceptions and Variances.

Both case law and the Baltimore County Zoning regulations provide circumstances under which special exceptions and variances will not be granted. Section 502.1 of the Baltimore County Zoning regulations provide that a special exception shall not be granted if it:

a. is detrimental to the health, safety or general welfare;

b. tends to overcrowd land or cause undue concentration of people;

c. tends to create congestion in the streets or ways; or

d. creates a fire or panic hazard.

(See, Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267

(1964)).

Similarly, the case law establishes standards for determining whether a variance should be granted. The Court of Appeals in McLean v. Soley, 310 A.2d 783, 270 Md. 208 (1973) held that the standard for granting a height or area variance is " . . . whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship' . . ." For area variances the "practical difficulty" standard is applied.

In McLean, the Court used the following criteria to determine the issue of "practical difficulty:"

1. Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

McLean (quoting 2 Rathkopf, "The Law of Zoning and Planning", 45-28, (3d ed. 1972)).

The decision below is inconsistent with the required standards for granting exceptions and variances. The Board's decision, therefore, should be reversed.

B) The Board's Decision Fails to Protect the Health, Safety and General Welfare of the Public.

The Board had an obligation when granting the requested special exception and variance to assure that the amended plan did not adversely impact the health, safety, and general welfare of the public. See Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267 (1964) and McLean v. Soley, 310 A.2d 783, 270 Md. 208 (1973). The amended plan plainly fails to meet the required standard.

In fact, the Board found that the amended plan would have a negative effect on the public's health, safety, and welfare. The Board's Opinion stated specifically that ". . . the amended plan would . . . adversely impact the health, safety, and general welfare of the public." (Opinion at 8).

The record supports the Board's finding. Several witnesses testified that the creek was unsafe for swimming. Another

witness attested to the high levels of bacteria present in the creek. Other witnesses described the fire hazards created by the amended plan. See generally Record at 183, 225-226. (The Court should note that this fire hazard alone is a basis for the denial of the proposed project. See, Levy et al. v. Seven Slade, Inc., 234 MD. 145, 198 A.2d 267 (1964).) The Appellee offered little evidence to contradict the testimony of these witnesses.

Because the Board found that the amended plan " . . . would adversely impact the health, safety, and general welfare of the public", appellee's proposed project fails as a matter of law to meet the standards established in McLean and in the zoning regulations.

C. The Amended Plan Will Overcrowd the Land and Create Congestion in Surrounding Streets and Waterways.

In granting the special exception and variance, the Board also had an obligation to assure that the amended plan would not cause overcrowding or congestion of the streets and waterways. See Levy et al. v. Seven Slade, Inc., 234 Md. 145, 198 A.2d 267 1964.

The Board itself found that the amended plan would cause overcrowding. Specifically, in its Opinion, the Board stated that the amended plan ". . . would cause overcrowding of the land and public facilities . . ." (Opinion at 8).

Again, the record supports the Board's decision. Several

witnesses testified about existing overcrowding at the marina and on the narrow access road to the site. One witness testified that the chief purpose for using rack storage is that it allows facilities to place a large number of boats into a small area. Record at 182. Another witness commented that the creeks in the area were so densely concentrated with boats that it was like running an obstacle course. Record at 190. A third witness noting the overcrowding in Sue Creek, commented that on July 28, 1991, there were 761 boats moored in the narrow channels of Sue Creek. Opinion at 5. See also, Exhibit 3 (People's Counsel).

Based on the above testimony and the Board's findings of fact, the amended plan fails to meet the required standards set forth by Section 502.1 of the zoning regulations. This Court should, therefore, reverse the Board's decision.

D. Denial of the Requested Variance Will Not Result in Unreasonable Hardship

As stated previously, a variance maybe granted if " . . . strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship' . . ." McLean at 783. Moreover, the Court of Appeals has held that a personal inconvenience is not sufficient to warrant an area exception or variance. Carney v. City of Baltimore, 201 Md. 130, 93 A.2d 74 1952.

The appellee can clearly continue to operate his business without the requested variance and special exception. In fact,

the appellee currently uses the property for racked boat storage. Appellee testified that he selected this method of boat storage because it was convenient for boat owners. (Opinion, at 4). Denying the variance, therefore, would not hinder the appellee from using his property for its permitted purpose.

Since the appellee's request for a variance was based on convenience rather than undue hardship or burden, the Board's decision to grant the variance was illegal. See, Carney v. City of Baltimore, 201 Md. 130, 93 A.2d 74 1952. The Board's decision, therefore, should be reversed.

CONCLUSION

The standard of review to be applied to the Board's decision is set forth in the Maryland Administrative Procedure Act, State Government Article, § 10-215. That provision, in pertinent part, states that the circuit court may ". . . reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion or decision of the agency ". . . . (iv) is affected by any other error of law. . . ." or is "(vi) is arbitrary or capricious." MD STATE GOV'T CODE ANN. §10-215 (g) (1984). For the reasons set forth above, the Board's decision was arbitrary, capricious, and illegal and should be reversed.

CASE NO. 91CV4169

(12) Oct 17,1991 Amended Petition of Charles N. Anderson for Order on Cross Appeal,fd.

13) Oct 18,1991 Answer of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopner to Petition on Cross Appeal,fd.

14)Nov. 1, 1991 Answer of People's Counsel for Balto. Co., fd. (Rec'd-10/28/91)

(15) Nov. 6, 1991 Answer of People's Counsel for Balto. Co. to Amended Petition on Cross Appeal of Charles N. Anderson, fd. (Rec'd 11-8-91)

15A) Nov. 11, 1991 - Appellant's Memorandum of law requesting reversal of Board of Appeals Decision fd.

16) Nov 14, 1991 People's Counsel's Memorandum, fd.

(16A) Nov. 15, 1991 - Stipulation, fd.

(17) Nov. 22, 1991 - Memorandum of Cross Appellants, Charles N. Anderson, Jr., Statement of Case, fd.

(18) Dec. 18,1991 - Stipulation, fd.

(19) Dec. 23, 1991 Stipulation fd.

(20) Dec. 30,1991 - Appellee's CHARLES N. ANDERSON, JR. memorandum, fd.

(21) Jan 16, 1992 Appellants' (Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher) response to Appellee's Memorandum on Cross-appeal and Appellants' Reply Memorandum, fd.

January 21,1992 Hon.Barbara Kerr Howe. Hearing had. Opinion to be filed.

(22) April 6, 1992 - Opinion and Order of Court that the Board's Decision in inconsistent with its own findings of fact, the decision in on its face incorrect as a matter of law, and must, therefore, be REVERSED. The Cross Appeal is DENIED as MOOT, fd. (BKH)

WHEREFORE, Appellants, respectfully request that this Court reverse the decision made by the Baltimore County Board of Appeals.

Attorneys for Appellants

Melinda A. Rubin*

Kenda Layne*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 1991, a copy of this Memorandum for Appellants was delivered to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204. A copy was also mailed to the Attorney for Appellee, John B. Gontrum, 814 Eastern Blvd., Baltimore, MD 21221.

Kenda Layne*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

October 30, 1991

Circuit Court for Baltimore County
Civil Division
Towson, Maryland 21285

Dear Madam Clerk:

Enclosed please find our Answer to Amended Petition On Cross Appeal for filing.

Thank you for handling this matter.

Sincerely,

Melinda A. Rubin
Student Attorney

91 NOV -4 AM 11:45

510 West Baltimore Street
Baltimore, Maryland 21201-1786
301 328 8036 TDD ONLY
301 328 5856 FAX

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Stanley S. Herr
Homer C. LaRue
Susan P. Leviton
Michael A. Millemann
Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

Entrance: 500 West Baltimore Street

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO AMENDED PETITION ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, in answer to the Amended Petition on Cross Appeal of Charles N. Anderson, Jr., state:

1. The Appellants deny each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, the Appellants request that the Cross Appeal be dismissed.

Melinda A. Rubin*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 1991, a copy of the foregoing Answer to Amended Petition on Cross Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, Maryland 21204; and Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Bldg., 111 West Chesapeake Ave., Towson, Maryland 21204; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No.· 91-CV4169

: : : : : : :

ANSWER TO AMENDED PETITION ON CROSS APPEAL

People's Counsel for Baltimore County in answer to the Amended Petition on Cross Appeal of Charles N. Anderson, Jr., states:

1. People's Counsel denies each and every Paragraph 1. through 4. of the Amended Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, People's Counsel requests that the cross appeal be dismissed.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 28th day of October, 1991, a copy of the foregoing Answer to Amended Petition on Cross Appeal was served on the Administrative Assistant, County Board of Appeals, Rm. 315, County Office Bldg.,

Towson, MD 21204; and a copy mailed to Melinda A. Rubin, Esquire, and Scott Burns, Esquire, Clinical Law Office, University of Maryland, 510 W. Baltimore St., Baltimore, MD 21201; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, MD 21221.

Peter Max Zimmerman

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.,

Appellants

v.

CLARIDGE TOWERS COMPANY,

Appellee

: IN THE CIRCUIT COURT

: FOR BALTIMORE COUNTY

: Case No. 91CV4798

: : : : : : :

ANSWER TO PETITION FOR APPEAL (ON CROSS APPEAL)

People's Counsel for Baltimore County, et al., Protestants below and Appellants herein, state:

1. People's Counsel, et al. deny each and every Paragraph 1. through 6. of the Petition for Appeal (On Cross Appeal).

2. In further answer, undersigned Appellants-Protestants state that the entire petition for rezoning should have been denied for the reasons stated in their own Petition on Appeal.

Richard C. Burch/ph
Richard C. Burch
Suite 300, 105 West
Chesapeake Avenue
Towson, Maryland 21204
(301) 828-1335
Attorney for Individual
Protestants

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 28th day of October, 1991, a copy of the foregoing Answer to Petition for Appeal (On Cross Appeal) was served on the Administrative Assistant, County Board of Appeals, Rm. 315 County Office Bldg., Towson, MD 21204; and a copy mailed to S. Eric DiNenna, Esquire, Mercantile Towson Bldg., 409 Washington Ave., Suite 600, Towson, MD 21204.

Peter Max Zimmerman

Peter Max Zimmerman

School of Law

UNIVERSITY OF MARYLAND
AT BALTIMORE

CLINICAL LAW OFFICE

Writer's No. _____

October 17, 1991

Re: In the matter of the application of
Charles N. Anderson, Jr.,
Case No. 91CV4169

Dear Madam Clerk:

Enclosed for filing in the above referenced case please find appellants' Answer to Petition on Cross Appeal.

Thank you for your assistance.

Sincerely,

Melinda A. Rubin
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328-2022

91 OCT 18 AM 11:25

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Richard L. North
Deborah J. Weimer
Roger C. Wolf
Shirley M. Appelt, Administrator

Entrance: 500 West Baltimore Street

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO PETITION ON CROSS APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, in answer to the Petition on Cross Appeal of Charles N. Anderson, Jr., state:

1. The Appellants deny each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, the Appellants request that the Cross Appeal be dismissed.

Melinda A. Rubin*

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022

Attorneys for Appellants

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

Answer to Petition on Appeal - PC

* * * * * * * * *

PETITION ON CROSS APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in answer to Petition On appeal filed by People's Counsel for Baltimore County and states:

1. That each and every allegation contained in paragraphs 2, 3, and 4 of the Petition are **DENIED.**

2. That the allegations contained in paragraph 1 are **DENIED** to the extent that they indicate the Board lacked sufficient evidence in granting the relief requested by Charles N. Anderson, Jr., but **ADMITTED** to the extent that they indicate that the Board lacked substantial evidence on which to limit construction to three (3) racks with a total of 280 boats is Condition 5 of the Board's Opinion and Order.

WHEREFORE, Charles N. Anderson, Jr. asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson, Jr. pertaining to a fourth rack denied by the Board.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this __ day of October, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room

CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATAGORY APPEAL

IN THE MATTER OF THE APPLICATION OF
CHARLES N. ANDERSON, JR.
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES
ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF
HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD
(2434 HOLLY NECK ROAD) 15th ELECTION DISTRICT
15TH COUNCILMANIC DISTRICT
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Protestant
REGINA BEASMAN,
VIRGINIA BRITTMAN,
ERIC ARCIAGA,
KENNETH R. JOHNSON and
ROBERT CHRISTOPHER Appellants

TRANSCRIPT IN BASEMENT
LOCATION: Box 2

CIVIL ASSIGNMENT

ATTORNEYS

Phyllis Cole Friedman
Peter Max Zimmerman 887-2188
People's Counsel, Rm 304, Co Office Bldg, 111 W Chesapeake Ave (4)

Melinda A. Rubin, Scott Burns
Clinical Law Office of the U of MD
510 W Balto St (1) 323-2022

John B. Gontrum
814 Eastern Boulevard (21) 686-8274
(atty for Char. N. Anderson, Jr.)

CV GEN COSTS PAID
CV CLK 80.00
B LERY 10.00
POST 2.50
CHECK TL PD
#99492 DATE

(1) Sept 14, 1991 - Appellant's Order for Appeal from the Opinion and Order of the Balto Co Bd of Appeals fd.

(2) Sept. 13,1991 - Certificate of Notice, fd.

(3) Sept 23, 1991 - Protestant's PEOPLE'S COUNSEL FOR BALTIMORE COUNTY Petition on Appeal fd.

(4) Sept 23, 1991 - Appellants' Petition for Appeal fd.

(4a) Sep 25, 1991 Petition of Charles N. Anderson, Jr. for Order on Cross Appeal, fd.

(5) Sept. 26, 1991 - Certificate of Notice, fd.

(6) Oct 7, 1991 People's Counsel for Balto. County in answer to petition on cross appeal, fd.

(7) Sep 25, 1991 Petition of Charles N. Anderson, Jr. on Cross Appeal, fd.

(8) Oct. 15, 1991 - Transcript of Record fd.

(9) Oct. 15, 1991 - Notice of Filing of Record fd. Copies Sent.

(10) Oct 17,1991 Answer of Charles N. Anderson, Jr to Petition on Appeal of Regina Beasman,fd.

(11) Oct 17,1991 Answer of Charles N., Anderson to Petition on Appeal of Peoples Counsel for Baltimore County,fd.

Docket 2 Page 1 Case 91 CV 4169

304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

10/11/91

91 OCT 10 PM 2:25

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON	*	File #91CV4169
PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND	*	
BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH	*	
ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	

* * * * * * * * *

ANSWER TO PETITION ON APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in Answer to Petition On Appeal filed by People's Counsel for Baltimore County and states:

1. That each and every allegation contained in paragraphs 2, 3, and 4 of the Petition are **DENIED.**

2. That the allegations contained in paragraph 1 are **DENIED** to the extent that they indicate the Board lacked sufficient evidence in granting the relief requested by Charles N. Anderson, Jr., but **ADMITTED** to the extent that they indicate that the Board lacked substantial evidence on which to limit construction to three (3) racks with a total of 280 boats is Condition 5 of the Board's Opinion and Order.

WHEREFORE, Charles N. Anderson, Jr. asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson, Jr. pertaining to a fourth rack denied by the Board and that the Appeal by People's Counsel be dismissed.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 10 day of October, 1991, a copy of the foregoing Answer to Petition on Appeal was mailed,

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY NO. 91CV4169

* * * * * * * * *

ANSWER TO PETITION ON APPEAL

NOW COMES Charles N. Anderson, Jr., by his attorneys John B. Gontrum, Esquire and Romadka, Gontrum & Hennegan, P.A., in answer to Petition for Appeal of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher and states:

1. That each and every allegation contained in paragraphs 2, 4, and 5 of the Petition are **DENIED.**

2. That the allegations contained in Paragraph 1 are **ADMITTED** insofar as the Board's Opinion incorrectly interpreted the Baltimore County Zoning Regulations as justification for Condition 5 of the Order, but the allegations are **DENIED** to the extent that they indicate that the Regulations required denial of the relief requested, or that the decision should have denied any part or all of the relief requested.

3. That the allegations contained in Paragraph 3 and **DENIED** to the extent that they indicate that the Board's decision to grant the relief requested by Charles N. Anderson at least in part was not supported, but said allegations are **ADMITTED** in that the Board had no basis in the record to restrict construction to a total of three racks with a capacity of 280 boats.

WHEREFORE, Charles N. Anderson asks that the decision below be affirmed with respect to the relief granted and reversed with respect to the relief requested by Charles N. Anderson pertaining to a fourth rack denied by the Board in Condition 5 of the Board's Opinion and Order and that the Appeal by Petitioners herein be dismissed.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

I HEREBY CERTIFY that on this 12 day of March, 1991, a copy of the foregoing Answer to Petition on Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17 day of October, 1991, a copy of the foregoing Answer to Petition on Cross Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, Maryland 21204; and Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Bldg., 111 West Chesapeake Ave., Towson, Maryland 21204; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY/ERIC ARCIAGA, ET AL, APPELLANTS; CHARLES N. ANDERSON, JR., CROSS-APPELLANT ZONING CASE NO. 88-107-SPHA	*	CG Doc. No. 2 Folio No. 1 File No. 91-CV-4169

* * * * * * * * *

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, Harry E. Buchheister, Jr., and Lynn B. Moreland, 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 Commissioner and the Board of Appeals of Baltimore County:

No. 88-107-SPHA

June 21, 1990	Petition filed by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr. for a Special Hearing to amend site plan #5191-4, to construct storage racks and RTA determination.
June 21	Petition filed by John B. Gontrum, Esquire for Variances for out-of-water boat storage facility 14' from property line and paving and parking variances.
July 12	Publication in newspaper.
August 25	Certificate of Posting of property.

September 16, 1990	Comments of Baltimore County Zoning Plans Advisory Committee.
August 21	Hearing held on Petition by the Zoning Commissioner.
October 23	Order of the Zoning Commissioner GRANTING Petitions with restrictions.
November 21	Notice of Appeal received from People's Counsel for Baltimore County.
July 31, 1991	Hearing before the Board of Appeals.
August 15	Opinion and Order of the Board GRANTING the Petitions with restrictions.
September 13	Order for Appeal filed in the Circuit Court for Baltimore County by the Office of People's Counsel for Baltimore County and Melinda A. Rubin, Student Attorney and Scott Burns, Esquire on behalf of Regina Beasman, et al, Protestants.
September 13	Certificate of Notice sent to interested parties.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
September 23	Petition to accompany appeal filed in the Circuit Court for Baltimore County by Melinda A. Rubin, Student Attorney and Scott Burns, Esquire.
September 25	Cross-Appeal filed in the Circuit Court for Baltimore County by John B. Gontrum, Esquire on behalf of Mr. Charles N. Anderson, Jr.; Petition to accompany appeal also filed by Mr. Gontrum.
September 26	Certificate of Notice sent to interested parties.
October 15	Transcript of testimony filed.

Petitioner's Exhibit No. 1 -1961 Site Plan "Sue Creek Marina, Inc." 1/24/61
2 -Ltr. Haines from Sheesley 9/18/87 (4 pgs.)
3 -Site Plan "Jenkins North Marina" last revision date 3/21/89
4 -Site Plan "Sun Marina" last revision date 8/2/90
5 -Final Landscape Plan for Anderson Brothers Boat Sales sealed by Office of Planning & Zoning 7/22/91
6 -Inter-Office Correspondence from Sheesley to Haines 8/14/89
7 -Site Plan - Anderson Brothers Boat Sales Formerly Jenkins North Marina - final revision date 8/31/89
8 -Cross-Section drawing of proposed racks, landscaping, etc.
9 -Ltr. to Jenkins from Schneider, P.E. 8/2/88
10 -Plat to accompany Petition for Special Hearing to amend Special Exception and to approve parking and variance - final revision date 4/11/90
11 -Photographs of similar operation of rack storage
duplicated in studio.
a-Boat being placed in water
b-same as above
c-launching operation
d-same as above
e-fork lift
f-framework on launch well
g-building & fork lift
h-interior storage w/boats
i-boats in racks
j-boat on fork lift
12 -Photographs
a-aerial - marina
b-same as above w/racks
c-long aerial
d-very long aerial, marina
e-direct overhead, marina
f-Holly Neck Road w/marina
13 -Photographs
a-Johnson house
b-subject site
c-West on Holly Neck Rd.
d-fire hydrant
e-same as above

Petitioner's Exhibit No. 13
- f-boat store on site
- g-West on Holly Neck to site
- h-Hansen house
- i-piers on site
- j-composite -racks & parking
- k-composite - parking area & trailers
- l-on-site driveway
- m-two boat racks on-site
- n-boat rack & trailered boats
- o-view from water line

14 -a-Rental Contract 4/1/91
- b-Marina Rules & Conditions 1/15/91

15 -Zoning Commissioner's file

People's Counsel Exhibit No.
1 - Photographic Map 1"-200' scale "Holly Neck" 1/86 as marked by People's Counsel

2-Office of Assessments Inquiry 12/16/88

3-Map of boat count 7/28/91 prepared by witness Beasman

4-Photographs
- a-Vandermast area of Sue Creek
- b-Sue Creek-no vegetation
- c-same as above
- d-Bohel Property
- e-Beasman boat

5-Petition - 18 signatures

6-Photographs
- a-centerline Holly Neck - boat racks
- b-subject site w/store
- c-same as above
- d-subject site driveway w/racks
- e-across Holly Neck Rd. to entrance
- f-fence w/foilage
- g-sighting down Holly Neck Road
- h-fence w/foilage & racks
- i-same as above
- j-Holly Neck Rd. w/speed limit sign
- k-close-up of fence, foilage & rack

7-Photograph - Chesapeake Bay Protection Area sign

8-Photographs - 11/90 from water of subject site

9-List of Protestants

CASE NO. 91CV4169

(12) Oct 17,1991 Amended Petition of Charles N. Anderson for Order on Cross Appeal, fd.

(13) Oct 18,1991 Answer of Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher to Petition on Cross Appeal.fd.

(14) Nov. 1, 1991 Answer of People's Counsel for Balto. Co., fd. (Rec'd-10/28/91)

(15) Nov. 6, 1991 Answer of People's Counsel for Balto. Co. to Amended Petition on Cross Appeal of Charles N. Anderson, fd. (Rec'd 11-6-91)

(16) Nov. 11, 1991 - Appellant's Memorandum of law requesting reversal of Board of Appeals Decision fd.

(16) Nov 14, 1991 People's Counsel's Memorandum, fd.

(17) Nov. 15, 1991 - Stipulation, fd.

(17) Nov. 22, 1991 - Memorandum of Cross Appellants, Charles N. Anderson, Jr., Statement of Case, fd.

(18) Dec. 18,1991 - Stipulation, fd.

(19) Dec. 23, 1991 Stipulation fd.

(20) Dec. 30,1991 - Appellee's CHARLES N. ANDERSON, JR. memorandum, fd.

(21) Jan 16, 1992 Appellants'.(Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson and Robert Christopher) response to Appellee's Memorandum on Cross-appeal and Appellants' Reply Memorandum, fd.

January 21,1992 Hon.Barbara Kerr Howe. Hearing had. Opinion to be filed.

(22) April 6, 1992 - Opinion and Order of Court that the Board's Decision in inconsistent with its own findings of fact, the decision in on its face incorrect as a matter of law, and must, therefore, be REVERSED. The Cross Appeal is DENIED as MOOT, fd. (BKH)

(23) April 13, 1992 - Appellant's Motion to Alter, Amend and/or Revise Judgment fd.

(24) April 22, 1992 - People's Counsel Answer to Motion to Alter, Amend and/or Revise Judgment, fd.

(25) May 4, 1992 Appellant's Memorandum in response to Motion to Alter, Amended and/or revise court's Decision, fd.

June 1, 1992 - Hon. Barbara Kerr Howe. Hearing Had. Motion to Alter, Amend. (P#24) Denied.

(26) June 30, 1992 Appellant's Notice of Appeal to the Court of Special Appeals fd. (6/38)

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(27) Aug. 4, 1992 Order of Court from the Court of Special Appeals for case to proceed without a Prehearing Conference fd.(PEA)

(28) Oct. 8, 1992 Order of Court from the Court of Special Appeals of Maryland granting the Motion to extend time; that the record shall be transmitted on or before 10/21/92, fd. (Judge Alan M. Wilner 9/30/92)

OCTOBER 21, 1992 - ORIGINAL RECORD AND PROCEEDINGS SENT TO THE COURT OF SPECIAL APPEALS OF MARYLAND BY CERTIFIED MAIL.

CKCHECK TL 7.00
#30050 C002 R01 T11:35
10/21/92

(29) May 6, 1993 - Order of Court that this case be remanded to the Board of Appeals for Baltimore County for further proceedings, etc, fd (BKH)

Cert'd

October 15, 1991 Record of Proceedings filed in the Circuit Court for Baltimore County.

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

Respectfully submitted,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul, Legal Secretary, County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 (301) 887-3180

cc: People's Counsel for Baltimore County
Melinda A. Rubin, Student Attorney
Scott Burns, Esquire
Mr. Eric Arciaga, et al
John B. Gontrum, Esquire
Mr. Charles N. Anderson, Jr.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

AMENDED PETITION ON CROSS APPEAL

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B2 of the Maryland Rules, hereby files this Petition on Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991, and in support thereof says as follows:

1. That the Board lacked substantial basis in the record to modify the special hearing request of four (4) separate rack systems to three (3) separate racks.

2. That the Board failed to apply the appropriate legal standard in modifying the special hearing request amending the existing special exception.

3. That by modifying the special hearing request the Board limited the existing special exception, which permitted

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

unrestricted on-shore usage, beyond the limitations proposed by applicant, which limitation was not before the Board.

4. That the Opinion and Order of the Board took into consideration factors not appropriate for an application to modify an existing special exception thereby committing error.

WHEREFORE, Charles N. Anderson requests this Court affirm the Opinion and Order of the Board of Appeals in substantial part but to reverse the issuance of Condition 5 in the Opinion and Order of the Board limiting the number of racks to three(3) and limited to 280 boats.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 1st day of October, 1991, a copy of the foregoing Amended Petition on Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Case No. 91CV4169

: : : : : : :

ANSWER TO PETITION ON CROSS APPEAL

People's Counsel for Baltimore County in answer to the Petition on Cross Appeal of Charles N. Anderson, Jr., states:

1. People's Counsel denies each and every Paragraph 1. through 4. of the Petition, subject to the additional point that the County Board of Appeals had no basis to grant the special hearing and variances for reasons already stated in our own Petition for Appeal.

2. That there is no ground for a cross appeal.

WHEREFORE, People's Counsel requests that the cross appeal be dismissed.

91 OCT -7 AM 11:43

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 7th day of October, 1991, a copy of the foregoing Answer to Petition on Cross Appeal was served on the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204; and a copy mailed to Melinda A. Rubin, Esquire, and Scott Burns, Esquire,

Clinical Law Office, University of Maryland, 510 W. Baltimore St., Baltimore, Maryland 21201; and John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, MD 21221.

Peter Max Zimmerman

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 26, 1991

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan, P.A.
814 Eastern Boulevard
Essex, Maryland 21221

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Gontrum:

In accordance with Rule B-7(a) 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 appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for this cross-appeal must be at your expense.

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

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Charles N. Anderson, Jr.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 26, 1991

Scott Burns, Esquire
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Burns:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that a cross-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,

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Melinda A. Rubin, Student Attorney
Eric Arciaga, et al
People's Counsel for Baltimore County
P. David Fields
Patrick Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
CHARLES N. ANDERSON, JR., PLAINTIFF	*	CG Doc. No. 2
	*	Folio No. 1
ZONING CASE NO. 88-107-SPHA	*	File No. 91-CV-4169

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr. and Lynn B. Moreland, 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, John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Appellant/Petitioner; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Appellant/Petitioner; Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Protestants; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Protestants; and Michael B. Sauer, Esquire, c/o County Board of

Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Appellant/Petitioner; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Appellant/Petitioner; Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Protestants; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Protestants; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, MD 21204 on this 26th day of September, 1991.

LindaLee M. Kuszmaul,
Legal Secretary
County Board of Appeals, Room 315, County Office Building, 111 W. Chesapeake Ave., Towson, Maryland 21204 (301) 887-3180

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

ORDER FOR CROSS APPEAL

FILED
91 SEP 27 AM 11:16
CIRCUIT COURT
BALTIMORE COUNTY

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B4 of the Maryland Rules, hereby files this Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 27 day of September, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

LAW FIRM
ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

(30) June 3, 1993- Original papers and Mandate in the Court of Special appeals fd.
April 23, 1993- Per Curiam filed.
Judgment vacated; case remanded to the Circuit Court for Baltimore County with instructions to remand to the Board of Appeals of Baltimore County for further proceedings consitent with this opinion. One half of costs to be paid by appellant and one half of costs to be paid by appellees.
May 24, 1993: Mandate issued.

True Copy Test
SUZANNE MENSH, Clerk
Per Gloria Brooks
Deputy Clerk

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

IN THE MATTER OF THE APPLICATION OF	*	Docket #2
CHARLES N. ANDERSON, JR.	*	Folio #1
FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	File #91CV4169

* * * * * * * * *

PETITION ON CROSS APPEAL

Charles N. Anderson, Jr., by his attorneys John B. Gontrum and Romadka, Gontrum & Hennegan, pursuant to Rule B2 of the Maryland Rules, hereby files this Petition on Cross Appeal of the Opinion and Order of the Baltimore County Board of Appeals entered in this case on August 15, 1991, and in support thereof says as follows:

1. That the Board lacked substantial basis in the record to modify the special hearing request of four (4) separate rack systems to three (3) separate racks.

2. That the Board failed to apply the appropriate legal standard in modifying the special hearing request amending the existing special exception.

3. That by modifying the special hearing request the Board limited the existing special exception, which permitted

LAW FIRM

ROMADKA, GONTRUM & HENNEGAN, P.A.
ESSEX, MARYLAND

unrestricted on-shore usage, beyond the limitations proposed by applicant, which limitation was not before the Board.

4. That the Opinion and Order of the Board took into consideration factors not appropriate for an application to modify an existing special exception thereby committing error.

John B. Gontrum, Esquire
ROMADKA, GONTRUM & HENNEGAN
814 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for Appellee

I HEREBY CERTIFY that on this 25 day of September, 1991, a copy of the foregoing Order for Cross Appeal was mailed, postage paid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Esquire and Scott Burns, Esquire at Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201; and to the County Board of Appeals of Baltimore County, Room 315, County Office Building, Towson, Maryland 21204.

John B. Gontrum, Esquire

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.,	:	IN THE CIRCUIT COURT
	:	FOR BALTIMORE COUNTY
Appellants	:	Docket No. 2
v.	:	Folio No. 1
CHARLES N. ANDERSON, JR.	:	File No. 91-CV-4169
Appellee	:	
ZONING CASE NO. 88-107-SPHA	:	

: : : : : :

PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals under date of August 15, 1991, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That the County Board of Appeals had no legally sufficient evidence upon which to base its conclusion, and therefore their Order passed herein is illegal, arbitrary, and capricious.

2. That the decision of the County Board of Appeals will result in the overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public.

3. That the decision of the Board will further contribute to water quality problems in Sue Creek and result in environmental degradation in the Critical Area.

91 SEP 23 PM 12:21

4. That, based on the Board's own factual findings, the proposal as submitted would cause adverse effects unique to the neighborhood, and thus did not qualify for a special exception; that there was no specific finding or analysis to show that approval of a facility reduced in size would be satisfactory; and that there was no finding to justify any side yard setback variance based on practical difficulty.

WHEREFORE, People's Counsel prays that the Court will issue an Order reversing the Board of Appeals.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 23rd day of September, 1991, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to Melissa Rubin, Esquire, and Scott Burns, Esquire, Clinical Law Office, University of Maryland, 510 W.

Baltimore Street, Baltimore, MD 21201; and John B. Gontrum, Esquire, 814 Eastern Boulevard, Baltimore, MD 21221.

Phyllis Cole Friedman

Phyllis Cole Friedman

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND FILE NO. 91CV4169

* *

PETITION FOR APPEAL

Regina Beasman, Virginia Brinkman, Eric Arciaga, Kenneth R. Johnson, and Robert Christopher, appellants herein, petition this Court to reverse the Opinion and Order of the Baltimore County Board of Appeals entered in the instant case on August 15, 1991, for the following reasons:

1. The decision below is illegal because it does not comport with the requirements set forth in the Baltimore County Zoning Regulations governing the granting of Special Exceptions; and

2. The decision below is illegal because it is inconsistent with the requirements set forth in the Baltimore County Zoning regulations governing the granting of variances: and

3. The decision below is both illegal and arbitrary and capricious because the conclusions stated therein are unsupported by the Board's findings of fact; and

4. The decision is both illegal and arbitrary and capricious because it will result in the overcrowding of the land and public facilities and adversely impact the health, safety and general welfare of the public; and

5. The decision is both illegal and arbitrary and capricious because it will further contribute to water quality problems in Sue Creek and result in environmental degradation in the Critical Area.

WHEREFORE, Appellants ask that the decision below be reversed.

Melinda A. Rubin*

02 NOV 22 P3:16

Scott Burns

Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201
(301) 328 - 2022 or 2147

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of September, 1991, a copy of the foregoing Petition of Appeal was mailed to the Administrative Secretary, County Board of Appeals, Room 315, County Office Bldg., 111 W. Chesapeake Ave., Towson, MD 21204; and a copy was mailed to John B. Gontrum, Esquire, 814 Eastern Blvd., Baltimore, Maryland 21221, Attorney for Appellee.

Melinda A. Rubin*

* Student Attorney practicing pursuant to Rule 16 of the Rules Governing Admission to the Bar of Maryland.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 13, 1991

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan, P.A.
814 Eastern Boulevard
Essex, Maryland 21221

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Gontrum:

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,

LindaLee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Charles N. Anderson, Jr.
P. David Fields
Patrick Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk -Zoning
Arnold Jablon, Director of
Zoning Administration

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

September 13, 1991

Scott Burns, Esquire
Clinical Law Office of the
University of Maryland
510 West Baltimore Street
Baltimore, Maryland 21201

Re: Case No. 88-107-SPHA (Charles N. Anderson, Jr.)

Dear Mr. Burns:

In accordance with Rule B-7(a) 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 appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of 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 same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul

LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Melinda A. Rubin, Student Attorney
Eric Arciaga, et al
People's Counsel for Baltimore County

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE NORTH-WEST CORNER HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY/ERIC ARCIAGA, ET AL, PLAINTIFFS ZONING CASE NO. 88-107-SPHA	*	CG Doc. No. 2 Folio No. 1 File No. 91-CV-4169

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Harry E. Buchheister, Jr. and Lynn B. Moreland, 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, Phyllis Cole Friedman, People's Counsel for Baltimore County, Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Room 304, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204; Melinda A. Rubin, Student Attorney and Scott Burns, Esquire, Clinical Law Office of the University of Maryland, 510 West Baltimore Street, Baltimore, Maryland 21201, Counsel for Eric Arciaga, et al, Plaintiffs; Eric Arciaga, et al, 2501 Holly Neck Road, Baltimore, Maryland 21221, Plaintiffs; John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, P.A., 814 Eastern Boulevard, Baltimore, Maryland 21221, Counsel for Defendant; Mr. Charles N. Anderson, Jr., 2904 Mountain Road, Pasadena, Maryland 21122, Defendant; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 315, County Office

88-107-SPHA

14-1154-93
CAB

CHARLES N. ANDERSON, JR. * IN THE CIRCUIT COURT
v. * FOR BALTIMORE COUNTY
BALTIMORE COUNTY, MARYLAND * Case No. 91CV4169

* * * * * * * * *

ORDER

It is this 5th day of May, 1993 by the Circuit Court for Baltimore County,

ORDERED that this case be remanded to the Board of Appeals for Baltimore County for further proceedings consistent with the opinion of the Court of Special Appeals of Maryland.

Barbara Kerr Howe

Clerk to Notify

True Copy Test
SUZANNE MENSH, Clerk
Assistant Clerk

COMPTROLLER'S OFFICE
93 MAY -7 PM 3:53

RECEIVED
MAY 10 1993
ZADM

MAY 07 1993

FILED MAY 6 1993

4/1/92 - Order of the Cct REVERSING C.B. of A. (Barbara K. Howe, Hon.)
#88-107-SPHA (Charles N. Anderson, Jr.)

PCF: ___
PJZ: ___

APR 3 '92

92 APR -3 PM 2:14

4/6/92

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING TO AMEND A SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

91 CV 4169

O P I N I O N

In this case, the Baltimore County Board of Appeals, by its order of August 15, 1991 granted Charles N. Anderson, Jr., the Cross-Appellant, three of the four boat racks requested and, in addition, the requested zoning variances although limiting the number of permitted parking spaces to no more than 125 spaces. From that order, appeals were taken by several protestants, the People's Counsel, and by the original Petitioner, Charles N. Anderson, Jr.

A hearing was had, and arguments were heard by the court on this appeal and cross-appeal.

The standard of review to be applied to decisions from administrative agencies is one where "the court reviewing a final decision of an administrative agency shall determine the legality of the decision and whether there was substantial evidence from the record as a whole to support the decision." Board of Education of Montgomery County v. Milton A. Paynter et al, 303 Md 22 (1984). Substantial evidence has been defined in the case of Bulluck v. Pelham Wood Apartments, 283 Md. 505, (1978) to be "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." It is also clear that the reviewing court may not uphold the order of an agency unless the order is sustainable on the findings of the agency and for the reasons stated by the agency. See People's Counsel v. Mackard, 73 Md. App. 340 (1987

The Baltimore County Board of Appeals in this case made findings of fact with specific reference to the fact that the proposed marina expansion would adversely affect the public's health, safety and general welfare. Both case law and the Baltimore County Zoning Regulations require that a special exception shall not be granted if it is detrimental to the health, safety or general welfare. See Section 502.1 of the Baltimore County Zoning Ordinance and Levy, et al v. Seven Slade, Inc., 234 Md. 145 (1964).

The law concerning the standard for granting a requested variance involves a determination of "practical difficulty" to the owner if the requested variance is denied. In the case of McLean v. Soley, 270 Md. 208 (1973) "practical difficulty" was, in part, defined by a standard of whether relief by way of a variance could be granted and not violate the spirit of the ordinance and that, at the same time, the safety and welfare of the public be protected.

Because the Board's decision is inconsistent with its own findings of fact, the decision is on its face incorrect as a matter of law, and must, therefore, be reversed.

The Cross-Appeal is denied as moot.

Barbara Kerr Howe
4-1-92

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCES
NW/Corner Holly Neck Rd. and Baltimore Yacht Club Rd.
(2434 Holly Neck Rd.)
15th Election District
5th Councilmanic District

CHARLES N. ANDERSON, JR., Petitioner

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

Zoning Case No. 88-107-SPHA

NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of October 23, 1990, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 21st day of November, 1990, a copy of the foregoing Notice of Appeal was mailed to John B. Gontrum, Esquire, Romadka, Gontrum & Hennegan, 809 Eastern Blvd., Essex, MD 21221, Attorney for Petitioner; Eric J. and Antonia M. Arciaga, 2501 Holly Neck Rd., Essex, MD 21221; Kenneth R. Johnson, 2445 Holly Neck Rd., Essex, MD 21221; and Robert Christopher, President, Back River Neck Peninsula Community Assn., P.O. Box 16754, Baltimore, MD 21221, Protestants.

RECEIVED
11-21-90

Phyllis Cole Friedman
Phyllis Cole Friedman

IN THE MATTER OF THE APPLICATION OF CHARLES N. ANDERSON, JR. FOR A SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCES ON PROPERTY LOCATED ON THE NORTHWEST CORNER OF HOLLY NECK ROAD AND BALTIMORE YACHT CLUB ROAD (2434 HOLLY NECK ROAD) 15TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

CASE NO. 88-107-SPHA

* * * * * * * * *

O P I N I O N

This is an appeal from the decision of the Zoning Commissioner, dated October 23, 1990, granting with restrictions the Petitioner's request for construction of out-of-water boat storage racks according to amended site plan 5191-4 and RTA.

The appeal was heard de novo by this Board on July 31, 1991. Appellant was the Office of People's Counsel for Baltimore County represented by Phyllis Cole Friedman, Esquire; the Petitioner was represented by John B. Gontrum, Esquire. Several protestants appeared in opposition to the petition and were represented by five spokespersons. The decision of this Board is based solely upon the evidence, testimony and exhibits presented at this one-day hearing.

Petitioner presented his case first in order that the Board could become familiar with the issues being appealed. A Special Exception was granted to a previous owner of the site in 1961, permitting marine commercial use. The site contains two existing boat racks, paved parking areas, two launch wells, a permanent pier, two floating piers, and a retail sales building. Petitioner had planned a 55,000 square foot boat storage building on the site, but in 1987, abandoned the plan and constructed two boat storage racks, four boat spaces high and 24 wide. The site as depicted on amended site plan 5191-4 has passed the County Review Group (CRG),

although the Petitioner contends this process was unnecessary since the boat racks are not "buildings" but "structures" and, therefore, do not require CRG approval. The plan as submitted for the 9+ acre site, zoned R.C. 5 and B.L., calls for rack storage of approximately 370 boats, parking for 147 vehicles, a maintenance building, an approved landscape plan and approval from the Department of Environmental Protection & Resource Management (DEPRM).

Petitioner's first witness was William Bafitis of Bafitis and Associates, a registered professional engineer. Mr. Bafitis testified that his firm had been retained in 1986 by a former property owner to prepare a plan for out-of-water boat storage. His firm's original plan was for indoor rack storage, but it was converted to the present outdoor storage plan. The site, Mr. Bafitis testified, is served by public water and a private septic system; a public sewage system for the area has been planned and is included in current County budgeting. Describing the plan designed by his firm, Mr. Bafitis testified that it includes removal of crusher run, scrub trees, an existing boat ramp, some bulkhead and fuel tanks. He further testified that new grass and extensive vegetation, including 900 trees and shrubs, will be planted on the site and a sanitary pump-out tank will be added. No construction is to be undertaken in the water and stormwater management will be attained by replacement of crusher run with stone for on-site infiltration.

Mr. Bafitis testified that the boat racks as existing and proposed are constructed of I-beams and tubular steel based on concrete footers and are approximately 30 feet in height. The 14-

foot variance requested in lieu of the required 60 feet involves a property line shared with an adjoining commercial property and was calculated from a point of the bow of the longest boat stored in a rack, rather than from the rack itself. The racks, Mr. Bafitis further testified, meet the height constraint of R.C. zoning and are lower in grade than the nearest residential property.

On cross-examination, Mr. Bafitis testified that there are no parking parameters currently established by Baltimore County for boat storage rack facilities. The planned 147 spaces would provide more than the current marina requirement of .5 space per boat stored. The existing retail space would share parking with the storage area. Cross-examination of Mr. Bafitis further revealed that the retail space was not indicated on the plan approved for Special Exception in 1961; rather, a smaller residential building was shown on the site. Referring to the trees indicated on the Landscape Plan in evidence, Mr. Bafitis testified that the largest trees shown were 30 feet to 35 feet high; he did not know how high they would be when planted or how long the trees would be in place before they reached the indicated height.

Edward Sealing, General Manager of four marinas in Anne Arundel County, then testified on Petitioner's behalf. He described out-of-water rack boat storage as state-of-the-art. His testimony was that launching and retrieval of rack-stored boats is accomplished only by trained personnel operating fork-lift machinery. Therefore, it is faster and safer than the traditional trailer launch method. Boats stored in racks, Mr. Sealing further testified, release less pollution into the environment than do boats stored in-water; they require no protective bottom paint

which leaches into the water; they cannot leak oil, fuel or sewage, nor do they require bilge pumps; in-water boats can sink, polluting and blocking waterways while rack-stored boats cannot. Mr. Sealing testified that rack-stored boats cannot be used by owners and guests for sleeping, partying, or other dockside activities which may cause nuisance situations. Maintenance on rack-stored boats is minimal and must be conducted in a restricted area on-site, rather than in the water.

Boats stored in racks are less vulnerable, Mr. Sealing opined, to wind damage and fires than are boats stored in-water since racked boats must have on-board automatic fire extinguishing systems and electrical systems which can be completely disconnected during storage. Mr. Sealing further testified that an average of 17 percent of racked boats are moved during seasonal weekends with a maximum of 25 percent on the most active weekends and holidays.

Charles Norman Anderson, Jr., the Petitioner, testified that the north side of Holly Neck Road in the vicinity of the subject site contains a number of marine-oriented commercial operations. He selected rack storage for his marina because of its convenience for boat owners and the limited waterfront access of his property. The hours of operation for his marina are 8:30 a.m. to dark from April to October; 8:30 a.m. to 5:00 p.m. in November; and by appointment from December through March. Mr. Anderson further testified that current use of the boats stored at his facility is "a handful during the week...10 to 15 percent on weekends...25 percent on the busiest weekends." It is his opinion that the boats planned for the new facility would neither attract substantial additional traffic to the area nor adversely impact the environment

in any way. With Mr. Anderson's testimony, Petitioner rested his case.

People's Counsel called as its first witness Regina Blasman, 2320 Poplar Road. Mrs. Blasman testified that her residence is approximately 1/4 mile from the subject site. Her concerns are for the possible overcrowding of Sue Creek, Holly Neck Road and surrounding roads which she feels would be promulgated by the proposed rack facility. On July 28, 1991, Mrs. Blasman and her husband counted 761 boats moored in Sue Creek. She described its narrow channel and the existing pollution which has made the creek unsafe for swimming as well as driving all fish from the immediate area; water plants have also been lost as a result of heavy pollution. She further testified that Holly Neck Road is a two-lane, curving access to her community and that additional traffic attracted to a rack facility would cause further traffic congestion, along with serious concerns for the free access of emergency equipment. Mrs. Blasman expressed concern for the County's lack of regulations regarding rack storage facilities and the government's apparent inability to protect County citizens against problems they might cause.

Virginia Brinkman, 2300 Poplar Road, was People's Counsel's second witness. Ms. Brinkman, a boat owner and operator, joined Mrs. Blasman in her concerns for overcrowding of water and access roads, pollution of the environment and the detrimental effects on her community of additional recreational boaters in the area. Ms. Brinkman described a boat accident at the subject site which she had witnessed. She testified it is her belief the accident was caused by a combination of overcrowding at the facility, inadequate

lighting, and inexperienced boaters.

Eric Arciaga, 2501 Holly Neck Road, then testified. Mr. Arciaga who lives directly across the street from the subject site testified that the existing boat racks can be seen from his home. In addition to concerns already expressed, Mr. Arciaga testified that he is concerned about possible hazards, fire and wind damage on the site and the surrounding wooded areas. Mr. Arciaga reiterated questions about access of emergency vehicles to the small residential groups on Holly Neck Road; he was recently blocked from his home for 3 hours by an accident on Holly Neck Road at Back River Neck Road which resulted in fire equipment being mired in mud.

Kenneth R. Johnson, 2440 Holly Neck Road, testified that his concerns include limited visibility for drivers on Holly Neck Road as well as its two-lane width. He said that large trucks delivering boats to the subject property often cross a section of his lot located next to the subject marina. Mr. Johnson further testified that he is especially concerned about the potential of a serious fire in the area since the average stored boat holds 30 to 60 gallons of fuel. A photograph of the subject site and site plans submitted as exhibits indicate one fire hydrant near the subject site. Mr. Johnson testified that he hydrant is located outside a 6-foot high chain link fence; fire hoses would have to be draped over the fence or the fence cut through before water from the hydrant could be used for a fire on the subject site.

Robert Christopher, 2116 Holly Neck Road, was People's Counsel's closing witness. An environmental activist, Mr. Christopher testified that the proposal would be in his opinion

detrimental to this Critical Area, both water and land. He further testified that he believes Baltimore County is obligated to improve its regulatory measures in Critical Areas and to better enforce the existing regulations.

People's Counsel closed its case and both counsel offered closing statements to the Board.

The Board of Appeals has studied carefully the submitted exhibits and extensive testimony in this case. The Board is cognizant that concurrent legal action in regard to this property is underway in other venues. However, the action of this Board is limited to the constraints of the issues set before it --a request for variances and Special Hearing. While the history of this site and its development are convoluted at best, the Board finds that a Special Exception for marine commercial use of the site was granted by Baltimore County in 1961. The Board also finds that such use was and remains appropriate to the community and has been of a continuous nature for more than 30 years.

Recognizing that Baltimore County currently has no construction or inspection regulations to monitor boat rack storage, the Board finds it must rely on existing legislation, particularly as it impacts on Critical Areas and the environment in general. It is clear from the evidence requested that the variance requested for an out-of-water boat storage facility 14 feet from the property line should be granted as there is no evidence of adverse effect on the health, safety or general welfare of the public. However, it appears to this Board that the additional boat racks and parking spaces as proposed by Amended Site Plan 5191-4 would cause overcrowding of the land and public facilities and

adversely impact the health, safety and general welfare of the public. Further, the Board finds and will so order that the construction depicted on the Amended Site Plan would further stress the Critical Area and Sue Creek.

O R D E R

IT IS THEREFORE this 15th day of August, 1991 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Variance for an out-of-water boat storage facility 14 feet from the property line in lieu of the required 60 feet be and is GRANTED; and

IT IS FURTHER ORDERED that the Petition for Special Hearing for Amended Site Plan 5191-4, construction of storage racks and RTA be and is GRANTED with the following restrictions:

1. The Petitioner may apply for his building permit and be granted same upon receipt of his Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. There shall be no construction or anchorage within the accessway as set forth in the use agreement referenced in Petitioner's Exhibit 5 in the Zoning Commissioner's file.
3. The crusher run paving surface shall be treated twice a year, once in May and again in August each year, in accordance with DEPRM Article 19.18.03.D to prevent particular matter from becoming airborne. Petitioner shall maintain permanent records which establish that the required treatments have taken place in each of the required years from the date of this Order until the subject use ceases on the subject property. Such records shall be made available on demand for inspection by the Zoning Enforcement Division of the Office of Zoning.
4. All lighting for the subject property shall be erected in such a manner as to deflect away from any adjoining residential properties.
5. Petitioner shall be limited to the construction of a total

of three boat racks on site, their total capacity not to exceed 280 boats.

6. Petitioner shall be limited to a total of 125 parking spaces on site.
7. When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all recommendations of DEPRM, as set forth in their comments dated August 14, 1989, attached hereto and made a part hereof.

Any appeal from this decision must be made 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, Chairman

Harry E. Buchheister, Jr.

Lynn B. Moreland

ORDER RECEIVED FOR FILING
Date 8/15/91
By

MICROFILMED

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

August 15, 1991

Phyllis Cole Friedman
People's Counsel for
Baltimore County
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Case 88-107-SPHA
Charles N. Anderson, Jr.

Dear Ms. Friedman:

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

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: John B. Gontrum, Esquire
Mr. Charles N. Anderson, Jr.
Mr. Eric J. Arciaga
P. David Fields
Pat Keller
J. Robert Haines
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration
Joseph Nolan
Nancy C. West, Esquire

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - NW/C-rner Holly Neck Road and Baltimore Yacht Club Road (2434 Holly Neck Road) 15th Election District 5th Councilmanic District
Charles N. Anderson, Jr. Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 88-107-SPHA

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amendment to the previously approved site plan in Case No. 5191-X to permit construction of storage racks and determine parking requirements accordingly. Petitioner also requests variances as follows: from Section 417.7 to permit an out-of-water storage facility to be located 14 feet from the property line in lieu of the required 60 feet, from Section 409.2.C.2, Zoning Policy RM-11, to permit a stone paving surface in lieu of the required dustless and durable paved surface, and from Section 409.6.A.1 to permit 47 off-street parking spaces in lieu of the required 0.5 space per boat slip, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by John B. Gontrum, Esquire. Also appearing on behalf of the Petitions were Albert J. Anderson, Petitioner's brother, and William N. Bafitis, Registered Professional Engineer. Appearing as Protestants in the matter were Eric J. and Antonia M. Arciaga, and Kenneth R. Johnson. Phyllis Friedman appeared on behalf of the People's Counsel for Baltimore County.

Testimony indicated that the subject property, known as 2434 Holly Neck Road, consists of 5.087 acres more or less, split zoned R.C. 5 and B.L., and is currently improved with a marina and boatyard facilities. Said property is located within the Chesapeake Bay Critical Areas on Sue

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Date 8/15/91
By

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Creek. Mr. Anderson testified the subject property was originally part of a larger tract of land which was the subject matter of previous Case No. 5191-X wherein a special exception for the existing boatyard and marina was granted on January 18, 1961. Subsequent to the granting of the special exception, the property was divided into three parcels, now owned by Mr. Anderson, Dennis Peterson, and George Thiess, respectively. The subject parcel was originally owned by James H. Eurice who filed the original Petitions in this matter. Mr. Anderson currently operates "Anderson Brothers Boat Sales & Marina" on the subject 5.087 acre parcel and Mr. Peterson operates "Sun Marine" on the adjoining 2.63 acre parcel as indicated on Petitioner's Exhibit 8. Petitioner testified he caters to boats in the 15-27 foot range due to boat rack limitations. Petitioner also testified that his marina is open seven days a week between the hours of 9:00 AM and 6:00 PM.

Testimony indicated that Messrs. Anderson, Peterson, and Theiss have jointly entered a use agreement which provides for boat access to all three properties. Testimony indicated that the agreement establishing the access channel was created in view of the contour of the subject properties which created divisional lines that effectively cut off Mr. Theiss' access to the channel. Pursuant to the agreement, all three property owners will have access to the shaded area depicted on Zoning Commissioner's Exhibit 1. Additionally, the agreement prohibits any construction or permanent dockage in the subject shaded area. Further, Mr. Peterson has agreed to move the "T" from his pier immediately adjacent to Mr. Theiss' property in the subject shaded accessway as indicated on Zoning Commissioner's Exhibit 1.

William Bafitis testified on behalf of the Petitions that in his opinion, the proposed boat rack concept lessens the impact on the environ-

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File

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
8000 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
NANCY E. DWYER
SHARON R. GAMBLE

March 15, 1990

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED MAR 2 3 1990 pd
MAR 19 1990
ZONING OFFICE

David C. Flowers
Environmental Protection
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 88-107-SPHA
Eurice - Jenkins Marina

Gentlemen:

As you know from our conversations my client, Charles Anderson, would like to store boats on his site. He currently proposes to temporarily store boats on cradles at the location depicted on the last site plan for additional rack storage. This storage of boats on cradles would be one level storage in the area indicated for his boat storage and would be of temporary nature. These cradles can be dismantled literally overnight. From my conversations with you, it is my understanding that you have no objections with storing boats in this location.

Very truly yours,

John B. Gontrum

JG:kb
cc: Charles Anderson

DATE: 3-20-90
FROM THE DESK OF J. ROBERT HAINES

TO:
____ Ann Nastarowicz
____ James E. Dyer
____ W. Carl Richards
____ James H. Thompson
____ _____
____ See me immediately
____ Discuss with me
____ Prepare draft response
____ Please follow up
____ Collect $20. fee
____ Please handle
____ Please attend meeting
____ Prepare written report
____ Please file
____ Set up conference
____ Other _____

LAW FIRM

Romadka, Gontrum, Hennegan & Foos

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274

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

DONALD H. BRAND
DONALD H. SHEFFY

RECEIVED
OCT 23 1987
ZONING OFFICE

October 21, 1987

J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Item No. 463 - Case No. 88-107-SPHA
Petitioner - James H. Eurice

Dear Commissioner Haines:

Per our conversation, it is my understanding that we may have an extension of time to file the information requested by Mr. Flowers until November 15th. As you may know, the Comprehensive Map Process has put a tremendous burden on engineers to file issues by November 2nd and this unexpected workload has completely swamped our experts.

We thank you for your indulgence in this matter and I hope to timely meet this deadline.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Mr. James Eurice
Mr. David Flowers
Bafitis & Associates
Phyllis Cole Friedman

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
JEAN E. TULLIUS
TIMOTHY M. KOTROCO

June 27, 1988

RECEIVED ZONING OFFICE
DATE: 6/28/88

J. Robert Haines
Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

RE: Petitions for Special Hearing and Zoning Variance
Case Number: 88-107SPHA

Dear Mr. Haines:

I regret not having answered your letter in writing sooner, but I was attempting to set up a meeting with the Department of Environmental Protection and Resouce Management (DEPRM) with respect to the above referenced case. Over the months we have been negotiating with them on the characterization of the proposed storage building. As you know, within the limited development area there can only be an impervious surface of 15% or less of the total property. We have been negotiating with respect to the characterization of the storage building and how it relates to this impervious area.

Last Wednesday, June 22nd we met with David Flowers and submitted a new site plan indicating treatment of run-off from the roof of the building under the building itself. Hopefully this plan will meet with approval. Mr. Flowers has been most cooperative with us, and indeed, we believe that he is in favor of the concept. The problem is one of characterization and whether or not we would need a variance of the critical area criteria in order to obtain approvals for the proposed building. As soon as I hear from him I will be in touch with you. I certainly wish to thank you for your patience with respect to this matter.

Very truly yours,

John B. Gontrum

JBG/knc

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
JEAN E. TULLIUS
TIMOTHY M. KOTROCO

October 6, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Re: Case No. 88-107SPHA
Petitions for Special Hearing and Zoning Variance

Dear Mr. Haines:

I am in receipt of your letter ofd September 29th pertaining to the Eurice marina. Over the last several months we have had several conversations with Mr. Flowers in DEPRM. As a result of these conversations,he has suggested that we request a variance from the Critical area requirements of a 15% impervious area as he feels that the new boat racks if covered will exceed the State required. We have filed with Mr. Flowers revisions to our original plan indicating how the run off from this building will be treated, and it is my understanding from him that he is in agreement with us particularly with treatment and will not oppose the variance. The boat racks which Mr. Eurice has constructed are not to be part of the overall building which we have on our site plan and to replace existing boat racks and boat storage on his property albeit in a different configuration. We are meeting with Mr. Flowers within the immediately future in an attempt to finally resolve these matters and for the case to be concluded.

Thank you for your patience and consideration.

Very truly yours,

John B. Gontrum

JBG:Kb
cc: Mr. Eurice

RECEIVED
OCT 11 1988
ZONING OFFICE

File

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY

December 15, 1988

J. Robert Haines
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

Re: Case No. 88-107-SPHA
James Eurice

Dear Mr. Haines:

Please be advised that last Monday, December 12th, Robert Romadka, James Eurice and I met with Dave Flowers with respect to the Eurice petition for Special Hearing to amend his special exception. We have submitted borings to Mr. Flowers and he will be reviewing for sufficiency. In the event they are found to be sufficient by his department, he will then proceed to request the Planning Board to grant a variation of the Critical Area standards to allow the proposed building on the Eurice site. In the event that this is granted, we will then come back in front of you for the final disposition of you for the final disposition of this matter.

We thank you for your patience with respect to this matter.

Very truly yours,

John B. Gontrum

JBG:kb
cc: James Eurice

RECEIVED
DEC 19 1988
ZONING OFFICE

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
NANCY E. DWYER

January 12, 1989

RECEIVED
JAN 13 1989
ZONING OFFICE

J. Robert Haines
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

Re: Case No. 88-107-SPHA
James Eurice

Dear Commissioner Haines:

As you may recall, the above-referenced case has been pending before you for quite some time. At this point, we have reached an agreement with Mr. David Flowers with respect to the procedure in this case. All we are waiting at this time for concluding the case before you is for the development of a procedure to vary the critical area requirements as called for in the Baltimore County Legislation and in the State Critical Area Legislation. We believe that we are at a point of agreement with Mr. Flowers with respect both to the proposed improvements and with respect to our compliance with Critical Area Criteria. Of course, this does not necessarily go to all the issues before you in the special exception. We regret that it has taken so long to come to this point, but please understand that this case has served as a precedent with respect to many of the Critical Area Requirements pertaining to water dependent facilities. As soon as the procedure for varying the Critical Area Requirements is developed by Mr. Flower's department, and I understand the meeting on this was held last Monday with Mr. Flowers and Mr. Fields, the matter will be presented to the Baltimore County Planning Board. Once their decision has been made, we would ask for a new date before you to conclude the special hearing to amend the previous special exception on the property.

It is our understanding from Mr. Carl Richards that the original special exception pertains not only to this property but also to adjacent properties to the north. These properties, I understand from Mr. Richards, are also under proposed development. Frankly, I do not what the issues are in those cases, and do not wish for them to become involved in this particular matter. Our request before you was to amend the special exception site plan and to amend the special exception which was granted to our property. I believe this case before you serves to amend the original special exception plan in a sufficient manner to allow the issues of this case to be determined. Consequently, I do not believe that there should be any joinder of the two (2) cases. Mr. Richards has suggested a meeting with you to discuss all of the open issues, and I will be more than willing to meet with you at your convenience to further discuss this matter. Thank you for your cooperation and certainly your patience while we have tried to work out the problems involved in adopting the Critical Area procedure to this matter.

Very truly yours,

John B. Gontrum

JBG/cfr

cc: James Eurice
David Flowers

Please File

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
800 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD H. SHEFFY
NANCY E. DWYER

RECEIVED
APR 14 1989
ZONING OFFICE

April 10, 1989

J. Robert Haines
Zoning Commissioner for Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

Re: Case No. 88-107-SPHA

Dear Commissioner Haines:

Hopefully, we have been able to resolve many of the difficulties with the Department of the Environmental Protection with respect to the above referenced matter. It is my understanding from discussions which we have had in your office and with Carl Richards that we are not overlapping any special exception on neighboring properties and may proceed with the special hearing as filed. Our discussions with the Department of the Environmental Protection, however, have led us to down size the project somewhat and to eliminate a building over the racks at this time. Accordingly, we are modifying our site plan to indicate the smaller area proposed to be utilized for storage of boats as well as to revise the plat with respect to various mandatory calculations. We hope to have this plat with you within the next 10 days. We should not need any greater variances than that which we have already sought, and indeed should be asking for lesser standards of variation. We thank you for your indulgence with respect to this matter, but I believe Mr. Flowers would agree with me that we have ardently pursued this project with his office and have not sought to delay it. A review of my files indicates that it has been a year and a half since we started to work with the Department of the Environmental Protection on this project. There have been numerous twists and turns with respect to the law and regulations, and we appreciate your indulgence. As soon as the plat is ready, I will have it filed with your file as well as a copy with Mr. Flowers.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Bill Bafitis

ment and otherwise complies with the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). Additionally, Mr. Bafitis testified that Petitioner would suffer an undue hardship and practical difficulty if the relief requested in the Petition for Variance be denied.

The Protestants testified they were primarily concerned with the subject marina exacerbating the traffic congestion in this community. The Protestants also indicated that they would like appropriate safeguards taken to contain any dust that may emanate from the subject property.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. The testimony and evidence have clearly established that Petitioner has met the spirit and intent of Sections 502.1, 417.3 and 417.4 of the B.C.Z.R. Further, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the B.C.Z.R. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. It is clear the relief requested will not be detrimental to the public health, safety or general welfare.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay

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Date 10/23/90
By [illegible]

Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request ar . from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

2) Conserve fish, wildlife, and plant habitat; and

3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is

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Date 10/23/90
By [illegible]

compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested in the special hearing and variances should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of October, 1990 that the Petition for Special Hearing to approve an amendment to the previously approved site plan in Case No. 5191-X to permit construction of storage racks and determine parking requirements, in accordance with Petitioner's Exhibit 8, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 417.7 to permit an out-of-water storage facility to be located 14 feet from the property line in lieu of the required 60 feet, in accordance with Petitioner's Exhibit 8, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 409.2.C.2, Zoning Policy 90-11, to permit a stone paving surface in lieu of the required dustless and durable paved surface, in accordance with Petitioner's Exhibit 8, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 409.6.A.4 to permit 47 off-street parking spaces in lieu of the required 0.5 space per boat slip, in accordance with Petitioner's Exhibit 8, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this order is reversed, the

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Date 10/23/90
By [illegible]

Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Petitioner shall submit to the Zoning Commissioner's Office no later than February 15, 1991 a new site plan prepared by a registered professional engineer and/or land surveyor which clearly identifies all buildings, their size and area dimensions, and their exact location on the subject property. Said plan shall clearly indicate the access area which is the subject of the use agreement entered into between Dennis Peterson, Charles Anderson and George Theiss, as set forth on Zoning Commissioner's Exhibit 1, and shall conspicuously recite the substance of said agreement thereon.

3) There shall be no construction or anchorage within the accessway as set forth in the use agreement referenced in Petitioner's Exhibit 5.

4) The crusher run paving surface shall be treated twice a year, once in May and again in August each year, in accordance with DEPRM Article 10.1B. 03.D to prevent particular matter from becoming airborne. Petitioner shall maintain permanent records which establish that the required treatments have taken place in each of the required years from the date of this Order until the subject use ceases on the subject property. Such records shall be made available on demand for inspection by the Zoning Enforcement Division of the Office of Zoning.

5) Plans for the proposed project must be submitted for CRG approval prior to the issuance of any building permits.

6) Prior to the issuance of any permits, Petitioner shall submit a landscaping plan for approval by the Deputy Director of Planning. Said plan shall provide for landscaping which effectively screens the boat racks from the adjoining residential properties on the Holly Neck Road side of the subject property. A copy of the approved plan shall be submitted to this office for incorporation into the case file prior to the issuance of any permits.

7) All lighting for the subject property shall be erected in such a manner as to deflect away from any adjoining residential properties.

8) When applying for a building permit, the site plan and landscaping plan filed must reference this

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Date 10/23/90
By [illegible]

case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated August 14, 1989, attached hereto and made a part hereof.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

ORDER RECEIVED FOR FILING
Date 10/23/90
By [illegible]

MICROFILMED

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

October 23, 1990

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Essex, Maryland 21221

RE: Petitions for Special Hearing and Zoning Variance
NW/Corner Holly Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District - 5th Councilmanic District
Charles N. Anderson, Jr. - Petitioner
Case No. 88-107-SPHA

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: People's Counsel
File
All Protestants

MICROFILMED

AMENDED PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-107-SPHA

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

Variance from Section 417.7 to allow out-of-water boat storage facility 14 ft. from property line in lieu of required 60 ft.; Sect. 409.2.C.2 an interpretation by Zoning Policy 90-11 to allow a stone paving surface in lieu of the required dustless and durable surface; Section 409.6.A.4 to allow parking of 47 spaces for boats in storage on land

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

See original Petition for Variance and Amended Petition for Special Exception and to comply with Critical Area requirements

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

I, or we, agree to pay expenses of above Variance 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:	Legal Owner(s):
(Type or Print Name)	Charles Anderson (Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature

Attorney for Petitioner:
John B. Gontrum (Type or Print Name)
Signature
809 Eastern Boulevard
Address
Baltimore, Maryland 21221
City and State

2904 Mountain Road 255-4365 255-7856
Address Phone No
Pasadena, MD 21122
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address Phone No.

Attorney's Telephone No.: 686-8274

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of June, 1990, 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 21 day of August, 1990 at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

ORDER RECEIVED FOR FILING
Date 10/23/90
By [illegible]

AMENDED PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-107-SPHA

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

An Amendment to Case Number 5191-4 to allow amended site plan, construction of storage racks and to determine parking requirements.

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:	Legal Owner(s):
(Type or Print Name)	Charles Anderson (Type or Print Name)
Signature	Signature
Address	(Type or Print Name)
City and State	Signature

Attorney for Petitioner:
John B. Gontrum (Type or Print Name)
Signature
809 Eastern Boulevard
Address
Baltimore, Maryland 21221
City and State

2904 Mountain Road 255-4365 255-7856
Address Phone No.
Pasadena, MD 21122
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address Phone No.

Attorney's Telephone No.: 686-8274

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of June, 1990, 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 21st day of August, 1990 at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

(over)

ORDER RECEIVED FOR FILING
Date 10/23/90
By [illegible]

Baltis & Associates

Description of Property Owned by James H. Eurice and known as No.2434 Holly Neck Road, Baltimore, Maryland 21221, Located in the 15th Election District of Baltimore County, Maryland.

Beginning at a point on the North side of Holly Neck Road, said point being 440 feet, more or less, in an westerly direction from the center of the intersection of Holly Neck Road and Baltimore Yacht Club Road; binding along the North side of Holly Neck Road South 84 Degrees 40 Minutes 31 Seconds East 175.41 feet and South 79 Degrees 43 Minutes 44 Seconds East 252.68 feet to a point in Baltimore Yacht Club Road and runnning thence and binding in Baltimore Yacht Club Road North 28 Degrees 04 Minutes 28 Seconds East 341.11 feet and North 40 Degrees 42 Minutes 23 Seconds East 63.49 feet thence leaving Baltimore Yacht Club Road the following courses; North 84 Degrees 06 Minutes 37 Seconds West 342.00 feet, North 5 Degrees 53 Minutes 23 Seconds East 98.80 feet, North 5 Degrees 53 Minutes 23 Seconds East 114.00 feet, South 80 Degrees 16 Minutes 54 Seconds West 101.30 feet, South 45 Degrees 25 Minutes 54 Seconds West 86.22 feet, North 77 Degrees 36 Minutes 06 Seconds West 106.83 feet, South 04 Degrees 54 Minutes 43 Seconds West 491.69 feet to the place of beginning. Containing 5.0871 acres of land, more or less.

STATE OF MARYLAND — WILLIAM N. BALTIS — REGISTERED PROFESSIONAL ENGINEER

William N. Baltis, P.E.
Md. Reg. No. 11641

88-107-SPHA

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336

CERTIFICATE OF POSTING 88-107-SPHA
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15th — Date of Posting 7/27/90
Posted for: Special Hearing & Variance
Petitioner: Charles Anderson/Anderson Brothers Boat Sales
Location of property: N/Side Holly Neck Rd. & Balt. Yacht Club Rd.
2434 Holly Neck Rd.
Location of Signs: Facing Holly Neck Rd., approx. 40'± East of Balt. Yacht Club Rd. property of Petitioner
Remarks:
Posted by (Signature) — Date of return: 8/1/90
Number of Signs: 1

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petitions for Special Hearing (per Zoning Variance) Case Number: 88-107-SPHA N/W Corner Holly Neck Road and Baltimore Yacht Club Road 2434 Holly Neck Road 15th Election District - 5th Councilmanic Legal Owner(s): Charles Anderson/Anderson Brothers Boat Sales, formerly James Eurice/Jenkins Marina Hearing Date: Tuesday, August 21, 1990 at 9:30 a.m.

Variance: To allow out-of-water boat storage facility 148 ft. from property line in lieu of the required 500 ft.; to allow for a stone paving surface in lieu of the required durable and dustless surface; and to allow parking of 47 spaces for boats stored on land.

Special Hearing: An amendment to Case Number 91-91-X to allow amended site plan, construction of storage racks and to determine parking requirements.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

7/26 July 19

CERTIFICATE OF PUBLICATION

TOWSON, MD., July 13, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on July 12, 1990.

THE JEFFERSONIAN,

S. Zeke Orlinsky
Publisher

PO 106140

88-107-SPHA

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 13th day of August, 1987.

J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: James H. Eurice
Petitioner's Attorney: John B. Gontrum, Esquire

Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

CERTIFICATE OF PUBLICATION
Office of
THE AVENUE NEWS

442 Eastern Blvd.
Balto., Md. 21221

July 12, 1990

THIS IS TO CERTIFY, that the annexed advertisement of Charles Anderson/Anderson Brothers Boat Sales, formerly James Eurice/ Jenkins Marina in the matter of Petition for Special Hearing and Zoning Variance on 2343 Holly Neck Rd, N/W corner Holly Neck Rd and Baltimore Yacht Club Rd. Case #88-107-SPHA, P.O.#0106139, Req. #N44258. 119 lines @.55 $65.45

was inserted in **The Avenue News** a weekly newspaper published in Baltimore County, Maryland once a week for 1 successive week(s) before the 13 day of July 1990, that is to say, the same was inserted in the issues of July 12, 1990

The Avenue Inc.
per publisher
By Diane Blackwell

Notice Of Hearing

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows: Petition for Zoning Variance

Case Number: 88-107-SPHA N/W Corner Holly Neck Road and Baltimore Yacht Club Road 2434 Holly Neck Road 15th Election District - 5th Councilmanic Legal Owner(s): Charles Anderson / Anderson Brothers Boat Sales, formerly James Eurice / Jenkins Marina Hearing Date: TUESDAY, AUGUST 21, 1990 at 9:30 a.m.

Variance: To allow out-of-water boat storage facility 148 ft. from property line in lieu of the required 500 ft.; to allow for a stone paving surface in lieu of the required durable and dustless surface; and to allow parking of 47 spaces for boats stored on land.

Special Hearing: An amendment to Case Number 91-91-X to allow amended site plan, construction of storage racks and to determine parking requirements.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

Petitions For Special Hearing and Variances
16th Election District
5th Councilmanic District
Case No. 88-107-SPHA

LOCATION: Northwest Corner Holly Neck Road and Baltimore Yacht Club (2434 Holly Neck Road).
DATE AND TIME: Monday, September 21, 1987, at 10:30 a.m.
PUBLIC HEARING: Room 106, County Office Building, 111 West 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 to approve an amendment to Case No. 91-91-X to permit construction of a new building and to determine parking requirements.

Petition for Zoning Variances to permit a setback of 30 feet in lieu of the required 50 feet, a setback of 47 feet to the centerline of the street in lieu of the required 75 feet, 26% of the lot to be covered by buildings in lieu of the required 15%, and a stone paving in lieu of the required durable and dustless surface.

Being the property of James H. Eurice, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
J. ROBERT HAINES
Zoning Commissioner
Of Baltimore County

27.48

The Times

Middle River, Md., Sept 3, 1987

This is to Certify, That the annexed
Petition Eurice
Reg #05170
was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive weeks before the 3rd day of Sept, 1987
Publisher.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

DATE 7-20-90

Charles Anderson
2904 Mountain Road
Pasadena, Maryland 21122

Dennis F. Rasmussen
County Executive

Re: Petitions for Special Hearing and Zoning Variance
CASE NUMBER: 88-107-SPHA
N/W Corner Holly Neck Road & Baltimore Yacht Club Road
2434 Holly Neck Road
15th Election District - 5th Councilmanic
Legal Owner(s): Charles Anderson/Anderson Brothers Boat Sales, formerly James Eurice/Jenkins Marina

Anderson:

Please be advised that $143.83 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional $50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs
cc: John B. Gontrum, Esq.

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

J. ROBERT HAINES
ZONING COMMISSIONER

September 15, 1987

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCES
NW/cor. Holly Neck Rd. and Baltimore Yacht Club (2434 Holly Neck Rd.)
15th Election District - 5th Councilmanic District
James H. Eurice - Petitioner
Case No. 88-107-SPHA

Dear Mr. Gontrum:

This is to advise you that $100.38 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing itself.

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

Sincerely,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:med

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

No. 37885

DATE 8/27/87 ACCOUNT 01-662
AMOUNT $ 100.38
RECEIVED FROM Middle River Printing, Publishing Co. Inc. Balto., Md. 21221
FOR ADVERTISING & POSTING CASE #88-107-SPHA
B 001****10038:a 0127F

Eurice

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF PUBLICATION

PETITIONS FOR SPECIAL HEARING AND VARIANCES
16th Election District
5th Councilmanic District
Case No. 88-107-SPHA

LOCATION: Northwest Corner Holly Neck Road and Baltimore Yacht Club (2434 Holly Neck Road)
DATE AND TIME: Monday, September 21, 1987 at 10:30 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 to approve an amendment to Case No. 91-91-X to permit construction of a new building and to determine parking requirements.

Petition for Zoning Variances to permit a setback of 30 feet in lieu of the required 50 feet, a setback of 47 feet to the centerline of the street in lieu of the required 75 feet, 26% of the lot to be covered by buildings in lieu of the required 15%, and a stone paving in lieu of the required durable and dustless surface.

Being the property of James H. Eurice, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

By Order Of
J. ROBERT HAINES
Zoning Commissioner
of Baltimore County

NOTE: Sept. 9

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept 3, 1987

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Sept 3, 1987.

THE JEFFERSONIAN,

Susan Lindsey Obrecht
Publisher

42.90

CERTIFICATE OF POSTING 88-107-SPHA
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 15th — Date of Posting 8/25/87
Posted for: Special Hearing & Variance
Petitioner: James H. Eurice
Location of property: N/W Cor. Holly Neck Rd. & Balt. Yacht Club Rd. 2434 Holly Neck Rd.
Location of Signs: Facing Holly Neck Rd. approx. 40' ± from nearest property line & Holly Neck Rd. & Balt. Yacht Club Rd.
Remarks:
Posted by (Signature) — Date of return: 8/31/87
Number of Signs: 2

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

No. 35833

DATE 8/27/87 ACCOUNT 01-615
AMOUNT $ 200.00
RECEIVED FROM John B. Gontrum
FOR Filing Fee: Spec. Hearing & Var. Item #63
B 001****20000:a 0127F
JAMES H. EURICE - PETITIONER

VALIDATION OR SIGNATURE OF CASHIER

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

August 17, 1987

MICROFILMED

NOTICE OF HEARING

RE: PETITIONS FOR SPECIAL HEARING AND VARIANCES
NW/cor. Holly Neck Rd. and Baltimore Yacht Club (2434 Holly Neck Rd.)
15th Election District - 5th Councilmanic District
James H. Eurice - Petitioner
Case No. 88-107-SPHA

TIME: 10:30 a.m.

DATE: Monday, September 21, 1987

PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
of Baltimore County

JRH:med

cc: Mr. James H. Eutice
608 Winton Avenue
Ferndale, Maryland 21061

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

88-107-SPHA

District 15th
Date of Posting 12/11/87
Posted for: Appeal
Petitioner: Charles N. Anderson, Jr.
Location of property: NW/cor Holly Neck Rd & Balto Yacht Club Rd
2434 Holly Neck Rd.
Location of Signs: Facing Holly Neck Rd., approx. 15' in front of property of Petitioner
Remarks:
Posted by [signature] Signature
Date of return 12/18/87
Number of Signs: 1

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

July 10, 1990

CORRECTED NOTICE OF REASSIGNMENT
HEARING HAS BEEN POSTPONED & GRANTED

Case #(s): 88-107-SPHA

Petitioner(s): Charles Anderson/Anderson Boat Sales
Location: 2434 Holly Neck Road

THE ABOVE MATTER HAS BEEN REASSIGNED.

THE HEARING WILL NOW TAKE PLACE AS FOLLOWS:

THURSDAY, SEPTEMBER 13, 1990 at 9:30 a.m.

in the BALTIMORE COUNTY OFFICE BUILDING, 111 W. Chesapeake Avenue, Room 106, Towson, Maryland 21204

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY

JRH:ge
Copies.

John B. Gontrum, Esq.
Charles Anderson

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

June 22, 1990

Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petitions for Special Hearing and Zoning Variance
CASE NUMBER: 88-107-SPHA
N/W Corner Holly Neck Road and Baltimore Yacht Club Road
2434 Holly Neck Road
15th Election District - 5th Councilmanic
Legal Owner(s): Charles Anderson/Anderson Brothers Boat Sales, formerly James Eurice/Jenkins Marina
HEARING: TUESDAY, AUGUST 21, 1990 at 9:30 a.m.

Variance to allow out-of-water boat storage facility 14 ft. from property line in lieu of the required 60 ft.; to allow for a stone paving surface in lieu of the required durable and dustfree surface; and to allow parking of 47 spaces for boats stored on land.
Special Hearing: An Amendment to Case Number 5191-X to allow amended site plan, construction of storage racks and to determine parking requirements.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Charles Anderson
John B. Gontrum, Esq.

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

Hearing Room -
Room 301, County Office Bldg. May 1, 1991

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-107-SPHA — CHARLES N. ANDERSON, JR.
NW/cor Holly Neck Rd. & Baltimore Yacht Club Road (2434 Holly Neck Rd.)
15th Election District
5th Councilmanic District

VAR-Out of water boat storage facility 14' from property line, paving & parking SPH-Amended site plan 5191-4, construction of storage racks and RTA

10/23/90 -Z.C.'s Order GRANTING Petitions with restrictions.

ASSIGNED FOR: WEDNESDAY, JULY 31, 1991 at 10:00 a.m.

cc: Charles N. Anderson, Jr. Petitioner
John B. Gontrum, Esquire Counsel for Petitioner
Mr. Albert R. Anderson (not a good address) returned 5/13/91
Eric J. and Antonia M. Arciaga
People's Counsel for Baltimore County Appellant

P. David Fields
Pat Keller
~~Public Services~~ ltr per Paula 5/24/91
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Nancy C. West, Asst. County Attorney
Arnold Jablon, Chief Deputy County Attorney

LindaLee M. Kuszmaul
Legal Secretary

5/1/91 - Following parties notified of hearing set for July 31, 1991 at 10:00 a.m.:

Charles N. Anderson, Jr.
John B. Gontrum, Esquire
Mr. Albert R. Anderson
Eric J. and Antonia M. Arciaga
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Nancy C. West, Asst. County Attorney
Arnold Jablon, Chief Deputy County Attorney

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

MAY 3 1991

Hearing Room -
Room 301, County Office Bldg. May 1, 1991

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-107-SPHA — CHARLES N. ANDERSON, JR.
NW/cor Holly Neck Rd. & Baltimore Yacht Club Road (2434 Holly Neck Rd.)
15th Election District
5th Councilmanic District

VAR-Out of water boat storage facility 14' from property line, paving & parking SPH-Amended site plan 5191-4, construction of storage racks and RTA

10/23/90 -Z.C.'s Order GRANTING Petitions with restrictions.

ASSIGNED FOR: WEDNESDAY, JULY 31, 1991 AT 10:00 a.m.

cc: Charles N. Anderson, Jr. Petitioner
John B. Gontrum, Esquire Counsel for Petitioner
Mr. Albert R. Anderson
Eric J. and Antonia M. Arciaga
People's Counsel for Baltimore County Appellant

P. David Fields
Pat Keller
Public Services
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Nancy C. West, Asst. County Attorney
Arnold Jablon, Chief Deputy County Attorney

LindaLee M. Kuszmaul
Legal Secretary

PETITIONS FOR SPECIAL HEARING AND VARIANCES

15th Election District - 5th Councilmanic District

Case No. 88-107-SPHA

LOCATION: Northwest Corner Holly Neck Road and Baltimore Yacht Club (2434 Holly Neck Road)

DATE AND TIME: Monday, September 21, 1987, at 10:30 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 to approve an amendment to Case No. 5191-X to permit construction of a new building and to determine parking requirements

Petition for Zoning Variances to permit a setback of 36 feet in lieu of the required 50 feet, a setback of 47 feet to the centerline of the street in lieu of the required 75 feet, 36% of the lot to be covered by buildings in lieu of the required 15%, and a stone paving in lieu of the required durable and dustless surface

Being the property of James H. Eurice, as shown on plat plan filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
OF BALTIMORE COUNTY

MICROFILMED

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 16, 1987

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

odo

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

John B. Gontrum, Esquire
809 Eastern Blvd.
Baltimore, Maryland 21221

RE: Item No. 463 - Case No. 88-107-SPHA
Petitioner: James H. Eurice
Petitions for Zoning Variance and Special Hearing

Dear Mr. Gontrum:

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.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer /mmb

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kkb

Enclosures

cc: Bafitis & Associates
1249 Engleberth Road
Baltimore, Maryland 21221

MICROFILMED

Baltimore County
Department of Health
Towson, Maryland 21204
494-2762

Donald J. Roop M.D., M.P.H.
Deputy State & County Health Officer

June 17, 1987

Dennis F. Rasmussen
County Executive

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Zoning Advisory Committee Meeting Item #463 are as follows:

Property Owner:	James H. Eurice
Location:	NW/C Holly Neck Road and Baltimore Yacht Club Road
Existing Zoning:	B.L. and R.C. 5
Proposed Zoning:	Special Hearing to approve an Amendment to Case No. 5191-X to allow construction of new building and to determine parking requirements and Variance to permit a setback of 36 feet in lieu of the required 50 feet and a setback of 47 feet to the centerline of the street in lieu of the required 75 feet, to permit 36% of the lot to be covered by buildings in lieu of the required 15%, and to permit a stone paving in lieu of the required durable and dustless surface
Area:	5.097 acres
District:	15 Election District

All ingress-egress roads are to have crusher-run applied as well as roads leading to buildings for storage, storage areas, and parking areas.

All traffic and parking areas must be treated as stated in COMAR 10.18.06.03.D(1)(a) & (b) in order to prevent particulate matter from becoming airborne.

Not less than once/year upon onset of each marine operational season crusher-run will be added to or replenished on existing stone surfaces to insure control of airborne particulate.

RECEIVED
JUN 24 1987
ZONING OFFICE

Very truly yours,

David Fallett, Director
Division of Air Pollution Control

DF/ala

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

XXXXXXXXXXXXXXXX
XXXXXXXX
C. Richard Moore
Acting Director

June 10, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

The Department of Traffic Engineering has no comments for items number 452, 453, 454, 455, 456, 457, 458, 459, 461, 462, 464, 465, 466, 468, 451, 467, and 463.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF:lt

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

May 26, 1987

Dennis F. Rasmussen
County Executive

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: James H. Eurice (critical area)

Location: NW/C Holly Neck Rd., and Balto. Yacht Club Road

Item No.: 463 Zoning Agenda: Meeting of 5/19/87

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.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. Additional hydrant required along Balto. Yacht Club Road.

( ) 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.

(X) 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.

REVIEWER: Capt. P.A. Kelly 5-26-87 Noted and Approved: John E. O'Neill
Planning Group
Special Inspection Division
Fire Prevention Bureau

/jl

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

July 13, 1990

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Hearing and Variance
C. Anderson t/a Anderson Bros. Boat Sales (formerly J. Eurice)
Case No. 88-107-SPHA

Dear Mr. Gontrum:

Please be advised that the adjoining properties known as Peterson Bros. and/or Mr. Theiss will be discussed in a meeting tentatively scheduled for July 31, 1990 at 9:30 A.M.

Since both of these properties and your client's property are all part of one original Order, you are more than welcome to participate in this meeting. As I have stated several times in the past, it is my desire to address all of the issues involving all of these properties at one time.

Please call my secretary, Marlene Novak, to let her know whether you will be attending this meeting.

Very truly yours,

J. Robert Haines

J. Robert Haines
Zoning Commissioner

JRH:mmn
cc: Mr. Charles Anderson

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 11, 1990

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
NW/Corner Holly Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District, 5th Councilmanic District
CHARLES N. ANDERSON, JR. - Petitioner
Case No. 88-107-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on November 21, 1990 by People's Counsel. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Charles N. Anderson, Jr. - 2904 Mountain Road, Pasadena, MD 21122

John B. Gontrum - 814 Eastern Boulevard, Baltimore, MD 21221

Albert R. Anderson - 1249 Evergreen Road, Baltimore, MD 21221

Eric J. and Antonia M. Arciaga
2501 Holly Neck Road, Baltimore, MD 21221

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

APPEAL

Petition for Special Hearing and Zoning Variance
NW/Corner Holly Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District - 5th Councilmanic District
CHARLES N. ANDERSON, JR. - Petitioner
Case No. 88-107-SPHA

Petitions for Special Hearing and Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits:
1. Copy of Plan - Sun Marine
2. Photos of Docks
3. Plat approved by OPZ (Case No. 5191)
4A. - 4H. - Comment Report from DEPRM (1987)
5. Plat to accompany Petitions (Sheet 1 of 2)
6. Plat to accompany Petitions (Sheet 2 of 2)
7. Comment Report from DEPRM (1989)
8. Plat to accompany Petitions (Sheet 1 of 2)
9. Plan - Sun Marine
10. 6 Photos of marina
11. Several Photos of marina

Protestant's Exhibits: 1. 1 Photos of marina area

Zoning Commissioner's Order dated October 23, 1990 (Granted with restrictions)

Notice of Appeal received November 21, 1990 from People's Counsel

cc: Charles N. Anderson, Jr. - 2904 Mountain Road, Pasadena, MD 21122

John B. Gontrum - 814 Eastern Boulevard, Baltimore, MD 21221

Albert R. Anderson - 1249 Evergreen Road, Baltimore, MD 21221

Eric J. and Antonia M. Arciaga
2501 Holly Neck Road, Baltimore, MD 21221

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: E. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, County Attorney

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines, Zoning Commissioner — Date: September 3, 1987

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

SUBJECT: Zoning Petition 88-107-SPHA

On the basis of the plans and information submitted by the petitioner, this office cannot support the granting of the subject request. We share the concerns expressed by the Department of Environmental Protection and Resource Management. Further, this proposal must either be processed by the CRG or obtain a waiver. Additionally, landscaping must be provided in compliance with the standards set forth in the Baltimore County Landscape Manual. Finally, in reviewing the submittal, it would appear that the proposal is too intensive in terms of the size of the lot.

Norman E. Gerber, AICP
Director

NEG:KAK:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel
File

RECEIVED
SEP 21 1987
ZONING OFFICE

CPS-008

PETITIONER'S EXHIBIT 7

RECEIVED
AUG 18 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines, Zoning Commissioner — DATE: August 14, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Special Hearing to amend Special Exception No. 5191-X and to determine parking requirements. Jenkins North Marina, Property of Mr. James H. Eurice. Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 2434 Holly Neck Road along Sue Creek off of Middle River, and is classified as a Water-Dependent Facility within a Limited Development Area.

APPLICANT'S NAME Mr. James H. Eurice

APPLICANT PROPOSAL

The applicant has requested a Zoning Variance from Section "1A04.3.B.3 to permit a setback of 34 feet in lieu of the required 50 feet and a setback of 58 feet in lieu of the required 75 feet, and from Section 409.2.C.(2) to permit stone paving in lieu of the required durable and dust free surface."

The applicant has also requested a Special Hearing to amend an already existing Special Exception for a marina and to determine parking requirements. The marina has existed on the property at least since the Special Exception, which was granted in 1961. The applicant has proposed to amend the Special Exception by placing four boat racks for the storage of boats on the 5.087 acre site. Currently, boats are stored throughout the site, some in existing racks.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

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IN 107 SPHA Petitioner 6

PETITIONER'S EXHIBIT 7

Memo to Mr. J. R. Haines
August 14, 1989
Page 2

2. Conserve fish, wildlife and plant habitat; and

3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

REGULATIONS AND FINDINGS

1. Regulation: "Dredging, filling, or construction other than approved bulkheading shall not be permitted in any non-tidal and tidal wetlands unless the proposed development consists of utility, bridge, or street development in a non-tidal wetland and unless the Director of Environmental Protection and Resource Management finds this proposed development not detrimental to the County's Wetland Management Program" <Baltimore County Code, Section 22-211>.

Finding: No non-tidal or tidal wetlands exist on this site.

2. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams.

The natural vegetation occurring in the buffer shall remain undisturbed. Except as provided in Section 22-214, vegetation shall be planted in the buffer where necessary to protect, stabilize, or enhance the shoreline.

Development activities, including redevelopment activities and including structures, roads, parking areas and other impervious surface, mining and related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities, as approved in accordance with Sections 417 in the Baltimore County Zoning Regulations and 22-218 in the Baltimore County Code" <Baltimore County Code Sec. 22-213>.

Finding: Jenkins North Marina currently enjoys full access within the buffer area. The buffer contains a grassed/stoned area that is used for boat storage and parking, and a crusher-run road leading to a boat ramp, a travel lift, and two concrete boat loading pads.

Memo to Mr. J. R. Haines
August 14, 1989
Page 3

The applicant proposes to limit access within the buffer to the area served by the existing crusher-run road. The boat ramp shall be removed and replaced with a bulkhead and another concrete boat loading pad.

The 110' width of the buffer to the east of the existing crusher run road shall be revegetated as follows:

1. A 50' width shall be afforested for a distance of 70' from the mean high water line;

2. A 60' width shall be afforested a distance of 130' from the mean high water line.

The buffer to the west of the existing crusher run road shall be revegetated as follows:

1. A 20' width shall be afforested for a distance of 90' from the mean high water line;

2. Additional pervious areas which are the higher traffic boat loading portions shall be revegetated in grass for a distance of 90' from the mean high water line.

The areas of the buffer between the branches of the existing crusher run road shall be revegetated in grass. The remaining portion of the buffer will continue to be used as a parking area on a permeable stone surface.

3. Regulation: "If no forest or developed woodland exists on a developed site, the applicant must afforest 15% of the site according to an approved forest establishment plan" <Baltimore County Code, Section 22-217(c)(4)>.

Finding: The applicant shall afforest 15% of the site according to an approved forest establishment plan. In accordance with Section 38-6(a) of the Baltimore County Code, no grading or building permits will be issued until a forest establishment agreement and accompanying forest establishment plan has been approved by this Department.

A portion of the afforested area will be located within the buffer. To protect the afforested areas, wheel stops or some other form of vehicle separation shall be used between all afforested areas and parking areas, and between all afforested areas and roads.

PETITIONER'S EXHIBIT 7

Memo to Mr. J. R. Haines
August 14, 1989
Page 4

4. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot, parcel or property proposed to be developed" <Baltimore County Code, Section 22-217(e)>.

Finding: The sum of all man-made impervious areas shall equal a maximum of 15% of the property after the proposed development.

One boat rack storage area and the access road from this rack storage area to the access points within the buffer shall consist of crusher run, an impermeable material. The remaining portion of the existing crusher run road leading to the maintenance building and the existing crusher run parking area in front of the maintenance building shall be removed and replaced with a permeable stone surface. All other roads, parking areas, and areas underneath the boat storage racks shall also consist of a permeable stone surface. The permeable stone surface will consist of a bottom layer of geotextile cloth with graded layers of stone on top, ending with a pea gravel surface. in a design to be approved by this Department.

5. Regulation: "The stormwater management system shall be designed so that:

(1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;

(2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and

(3) Storm drain discharge points are decentralized to simulate the pre-development hydrologic regime.

(4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" <Baltimore County Code, Section 22-217(h)>.

Findings: Infiltration is maximized throughout much of the site through the use of a permeable stoned surface for parking and roadway areas. Stormwater runoff from the roof of an existing building shall be managed through the use of a dry well, and runoff created by the addition of impervious surface due to the boat storage racks shall be managed through the use of on-site infiltration trenches.

PETITIONER'S EXHIBIT 7

Memo to Mr. J. R. Haines
August 14, 1989
Page 5

6. Regulation: "All siting, development, redevelopment and expansion of water-dependent facilities within the buffer must strictly conform to the criteria set forth in the Baltimore County Water-Dependent Facilities Manual" <Baltimore County Code, Section 22-218.(b)>.

Finding: The applicant proposes no development, redevelopment, or expansion within the buffer. Instead, current full access within the buffer shall be limited to the area served by the existing crusher run road, therefore, a Water-Dependent Facilities Plan will not be required. However, should any development, redevelopment or expansion within the buffer be proposed, a Water-Dependent Facilities Plan would be required.

7. Regulation: Goals of the Chesapeake Bay Critical Area Program (COMAR 14.15.10.01.0).

Finding: To reduce adverse effects from the marina on water quality, fish, plant and wildlife habitat, the applicant shall be required to implement the following best management practices:

(a) The use of antifouling paints shall be restricted to boat hulls only and the painting of boats in the water shall be prohibited; piers and other in-water structures are not to be painted.

(b) The elimination of all in-water storage of boats through the use of boat storage racks, to minimize exposure times of marina waters to antifoulants.

(c) The installation of a system designed to retain and dispose of paint flakes and fine particles from hull cleaning and sanding in boat maintenance facilities.

(d) All containers of miscellaneous chemicals, boat paints, and paint vehicles shall be stored in designated facilities.

(e) Waste chemicals shall be disposed offsite by contract with a private waste-handling firm.

(f) No explosive chemicals shall be stored onsite.

(g) Waste motor parts and old batteries shall be disposed to closed containers before removal offsite.

(h) The strict enforcement by marina personnel of proper disposal of trash by boaters, with potential fines for improper disposal.

(i) Pump-out facilities for holding tanks and portable heads shall be provided; the cost of pump-out services shall be included in storage rental fees and provided on an unlimited basis.

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PETITIONER'S EXHIBIT 7

Memo to Mr. J. R. Haines
August 14, 1989
Page 6

(j) Boaters shall be notified of the prohibition against sewage dumping in marina waters, the pollution levels which result from discharges, and the penalties imposed for violations, by posting prominent signs and through rental agreement.

(k) Individuals leasing boat storage space shall be held responsible for sewage violations by written contract agreements which specify: "Head discharge overboard will result in voiding this contract immediately and expulsion from the marina with forfeiture of rental fees. Heads are to be pumped out without a per-service fee at the marina as often as requested."

(l) Fueling shall be supervised by marina personnel who shall be trained to prevent and clean up any fuel spills.

(m) Maintenance services provided by the marina may help improve combustion efficiency of resident boats; the removal of engines to an upland shop for major maintenance and repair may also help reduce petroleum product losses to the water.

(n) Boat owners shall be encouraged to use bilge pump filters or absorbent pads in bilges.

(o) The conservative use of fertilizers on site.

(p) The use of non-phosphorous detergents for washing boats.

CONCLUSION:

Upon compliance with the above requirements, this project will be approved for compliance with the Baltimore County Development Regulations in the Chesapeake Bay Critical Area.

Please contact Mr. David C. Flowers at 887-3980 if you require additional information.

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:ju

cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz
Mr. William N. Bafitis
Mr. James H. Eurice
Mrs. Janice Outen
Mr. Michael Nortrup

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

June 8, 1988

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
800 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petitions for Special Hearing and Zoning Variance
Case #88-107SPHA

Dear John:

Recently, I had the above captioned matter dieried for review and I, again, have discovered that no progress has taken place concerning this matter since October 2, 1987. I would appreciate it if you could provide me with an updated status report concerning your negotiations with various County agencies and the direction that you foresee this matter undertaking.

Thank you for your time and cooperation.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:mmn

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

January 31, 1990

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Case No. 88-107-SPHA
Petitions for Special Hearing & Zoning Variance
2434 Holly Neck Road
James Eurice - Petitioner

Dear John:

After our recent conversation regarding the above captioned case, I had a chance to review the new plan that was filed by Mr. William Bafitis on behalf of the new owners, Anderson Bros. Boat Sales. The new plan is much more legible and easy to understand. However, there appears to be a fundamental problem with this marina and its neighbors, namely, the Thiess and Peterson properties.

The plan does not indicate appropriate divisional lines for the waterfront facilities as required by Section 417 of the Baltimore County Zoning Regulations (B.C.Z.R.). There is no divisional line and appropriate maneuvering areas have not been provided for the Thiess Marina, Peterson Marina and the Anderson Bros. Marina. The issue involving these divisional lines, as required under Section 417, must be resolved since the original special exception marina has been subdivided into three parts and is currently under three separate ownerships. This issue must be resolved as part of this hearing. It is inappropriate to repost this matter when it is obvious that the piers cannot meet the requirements of Section 417.

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221
page 2.....

I am anticipating setting this case for hearing in May of 1990. Hopefully, this will provide you with sufficient time to file any additional necessary paperwork in a timely manner.

Please feel free to contact me to discuss this matter at your convenience.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH:mmn
cc: Mr. William Bafitis
Bafitis and Associates,Inc.
1249 Engleberth Road
Baltimore, Maryland 21221

cc: Ann Nastarowicz, Deputy Zoning Commissioner
W. Carl Richards, Zoning Coordinator
Gwendolyn Stephens, Docket Clerk

417.7--Marinas located on property consisting of five or more acres shall be permitted to establish out-of-water storage facilities for recreational marine crafts provided that no such facilities thereon shall be located within 60 feet of any property line, and provided,further, that screening shall be provided and maintained of such types and at such locations as may be required by the Zoning Commissioner or Board of Appeals, on appeal. [Bill No. 64, 1963.]

417.8--Waterfront construction must also comply with all applicable provisions of Section 22-210 in the Baltimore County Code pertaining to water-dependent facilities in the Chesapeake Bay Critical Area. [Bill No. 32, 1988.]

NOTE: SEE APPENDIX J FOR DIAGRAMS TO BE USED AS A GUIDE IN DETERMINING PROPERTY DIVISIONAL LINES

[418 - RESEARCH INSTITUTES AND LABORATORIES [Bill No. 76, 1964; Repealed by Bill No. 122, 1984.]

Section 419--CAR WASH [Bill No. 108, 1964.]

Applications for Special Exceptions for car washes shall also be subject to the following regulations: [Bill No. 108, 1964.]

419.1--A site plan shall be submitted showing the location of the car wash and adjacent properties, the means of ingress and egress, the manufacturer's rated hourly production capacity of the equipment to be installed, if available, or other evidence of the capacity of the equipment, the proposed waiting line capacity as required by Section 419.2, below, and such other information as may be required by the Office of Planning and Zoning. [Bill No. 108, 1964.]

419.2--The lot on which the car wash is to be located shall be sufficient to provide on-site waiting line storage for a total number of vehicles equal to the number capable of being processed during one-half hour, plus ten additional vehicles; where the equipment used is of an assembly line nature with labor supplied by the car wash operator, there shall be a minimum of 40 on-site storage spaces. [Bill No. 108, 1964.]

419.3--The site plan must be approved by the Traffic Engineer of Baltimore County, the Department of Public Works, and the Office of Planning and Zoning of Baltimore County. [Bill No. 108, 1964.]

419.4--The regulations contained in this Section 419 entitled "Car Wash" shall not apply to car washes existing on the effective date thereof." [Bill No. 108, 1964.]

APPROVED JUL 0 1 1989

4-04

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

November 14, 1989

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Zoning case No. 88-107 SPHA
James H. Eurice

Dear Mr. Gontrum:

As promised, I have reviewed the plan that you filed with Mr. Richards for the continuation of the Eurice Petition for Special Hearing to amend the Special Exception and Petition for Variances. I cannot reset this hearing at this time, because I cannot accept the plan that has been filed as a zoning plan.

The plan that was submitted most recently is too confusing and too cluttered to be rationally considered the zoning petition plan. Quite honestly, most of the Department of Environmental Protection and Resource Management information that is contained on this plan should not be incorporated on the zoning petition plan. The zoning petition plan should clearly show the relevant zoning subjects, specifically, the variances requested, location of the rack storage, and the proposed parking areas without containing the additional information for various other departments.

I would also like the plan to adequately address the water divisional lines as prescribed in Section 417.3,4,5,6, 7 and 8. As you may or may not be aware, the property owners on the other side of the cove at the Sun Marina are in the process of working with our office to develop a future zoning case concerning their operation. In order to appropriately address the issues raised in your Petition, the Section 417 issues must be addressed. I would appreciate it if you would have Mr. Bafitis meet with Carl Richards immediately, so that a proper plan for zoning purposes can be developed.

John B. Gontrum, Esquire
page 2.....

Please find enclosed the application for authorized inspection station license for trailers which you requested that I sign and return to you. I have enclosed the appropriate information on the page marked with a paper clip.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmn
encls.

bcc: Carl Richards

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

March 28, 1989

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petitions for Special Hearing and Zoning Variance
2434 Holly Neck Road
James H. Eurice - Petitioner
Case No. 88-107-SPHA

Dear Mr. Gontrum:

It is my understanding that revisions are planned for the subject property. If such is the case, it may be necessary for your client to file amended petitions and revised plans. Please advise me accordingly if such plans are underway and if your client is ready to schedule this matter for a hearing.

Thank you for your attention in this matter and if you have any questions on the subject, please do not hesitate to call.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: W. Carl Richards
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

January 17, 1989

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petitions for Special Hearing and Zoning Variance
2434 Holly Neck Road
James H. Eurice - Petitioner
Case No. 88-107-SPHA

Dear Mr. Gontrum:

It is my understanding that your client recently applied for a fence permit and that Carl Richards declined approval of the application pending the outcome of the above-referenced case.

In view of the fact that there are many unresolved issues surrounding this case, I would like to meet with you to determine what steps must be taken in order to finalize a decision in this matter. I have tentatively set aside Monday, January 30, 1989 at 10:00 AM for this meeting. If this is acceptable to you, please confirm with my office.

Thank you for your attention in this matter and if you have any questions on the subject, please do not hesitate to call.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: W. Carl Richards
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

October 17, 1988

Dennis F. Rasmussen
County Executive

John B. Gontrum, Esquire
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Essex, Maryland 21221

RE: Petitions for Special Hearing and Zoning Variance
NW/Corner Holly Neck Road and Baltimore Yacht Club Road
(2434 Holly Neck Road)
15th Election District
5th Councilmanic District
James H. Eurice - Petitioner
Case No. 88-107-SPHA

Dear Mr. Gontrum:

I am in receipt of your letter dated October 6, 1988 on the above-referenced case and I would like to set this matter in for a public hearing in January 1989.

Please confirm in writing if you concur with this projected date.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Case File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

September 29, 1988

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Case #88-107SPHA
Petitions for Special Hearing & Zoning Variance

Dear John:

Today, I had a conversation with Carl Richards, of my staff, indicating that your client, Mr. James H. Eurice, has attempted to process permits for the vertical storage of boats on the subject site while the still pending Special Hearing and Zoning Variance case is outstanding.

As you may or may not be aware, in 1984 the then Zoning Commissioner, Arnold Jablon, indicated that such a vertical storage would require an amendment of the original special exception in case #5191XA.

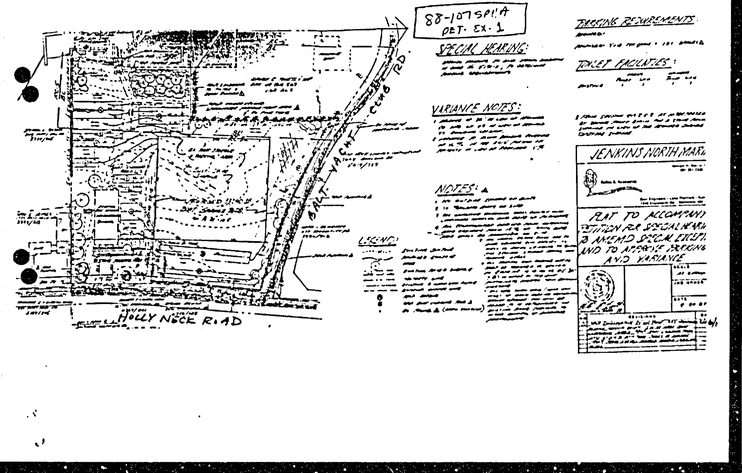
Mr. Richards has requested an improved site plan and further follow-up for the review of the requested permits as evidenced by his September 9, 1988 letter. I would like to resolve this matter and, if you wish, I will set the case in for rehearing or continuation of the original hearing, but I strongly suggest that the outstanding issues raised e he early hearing, with both the Protestnts and the Department of Environmental Protection, be resolveu prior to the hearing.

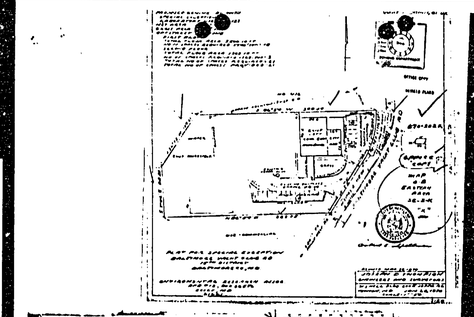
I await your response in this matter.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:mmn
att.
cc: Carl Richards





PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

#5191-XA

MAP 15-C -X-A 12/30/60

PETITION FOR SPECIAL EXCEPTION

IN THE MATTER OF

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

For a Special Exception

To The Zoning Commissioner of Baltimore County

William T. Caldwell and Charles F. Jamsha — Legal Owners

Contract Purchasers

hereby petition for a Special Exception, under the Zoning Regulations and Restrictions passed by the County Commissioners of Baltimore County, agreeable to Chapter 577 of the Acts of the General Assembly of Maryland of 1945, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Exception to use the land (and improvements now or to be erected thereon) hereinafter described for a Boat Yard and Marina, and it appearing that by reason of location, the safety, health or the general welfare of the locality not being detrimentally affected, the special exception should be granted, therefore

ORDERED by the Zoning Commissioner of Baltimore County this 30th day of November, 19 60 that the subject matter of this petition be advertised in two newspapers of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be held in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 11th day of January, 19 61, at 9:00 o'clock A. M.

Zoning Commissioner of Baltimore County

Upon hearing on the above petition for a special exception to use the property described therein for a Boat Yard and Marina, and it appearing that by reason of location, the safety, health or the general welfare of the locality not being detrimentally affected, the special exception should be granted, therefore

It is this 11th day of January, 1961, by the Zoning Commissioner of Baltimore County, ORDERED that the aforesaid Special Exception should be and the same is hereby granted, subject, however, to approval of plans for the development of said property by the Office of Planning and Zoning.

Zoning Commissioner of Baltimore County

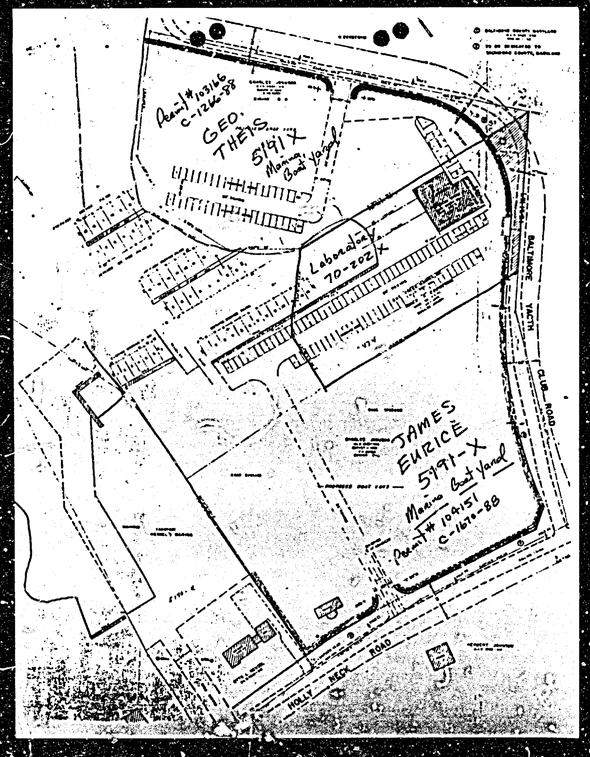
All that parcel of land in the 15th District of Baltimore County at the Northwest Corner of Holly Neck and Baltimore Beach Clun Roads, thence westerly, on the north side of Holly Neck Road 670 Feet; thence North 1 degree 30 minutes East 693.2 Feet, more or less to the north shore line of Cedar Creek; thence binding on said shore line of Cedar Creek and running northerly and northerly 741.57 Feet; thence South 38 degrees 15 minutes East 500 Feet to the west side of Baltimore Beach Clun Road and thence southerly on the west side Baltimore Beach Clun Road 1273.23 Feet to the place of beginning. Being and hereby intending to convey the same property as was Grace Barton, Inc., lessee, Case No. 7474, Now property of William T. Caldwell and Charles F. Jamsha as shown on plat plan filed with the Zoning Department.

William T. Caldwell
Charles F. Jamsha
Legal Owners
Address

Petitioner's Attorney

ORDERED By The Zoning Commissioner of Baltimore County this 30th day of November, 1960 that the subject matter of this petition be advertised in two newspapers of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be held in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 11th day of January, 1961, at 9:00 o'clock A. M.

Zoning Commissioner of Baltimore County



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

September 9, 1988
~~August 18, 1988~~

Dennis F. Rasmussen
County Executive

Mr. Stanley Wood
900 Baltimore Yacht Club Road
Baltimore, Maryland 21221

Mr. William Bafitis
1249 Engleberth Road
Baltimore, Maryland 21221

RE: Building Permit No. C-1670-88 C-1266-88
900 Baltimore Yacht Club Road or 2434 Holly Neck
15th Election district And
5191-X
88-107 SPHA

Dear : Mr. Wood

The Zoning Office cannot approve the above referenced building permit application for the following reason(s):

____ Improper setbacks
XX Improper use
____ Improper location
____ Insufficient information on ~~permit~~ Site plans
____ Inspection of the property must be made
REVISED PLANS (9 COPIES) MUST BE SUBMITTED TO COUNTER IN ROOM 100, COUNTY OFFICE BUILDING, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND. ALL PLANS MUST BE ACCOMPANIED BY A COVER LETTER LISTING THE REVISIONS AND REFERENCING THE PERMIT AND CONTROL NUMBER. REVISED PLANS MUST BE SUBMITTED IN PERSON.
XX Update the original public hearing site plans with all additions and proposed or anticipated changes including this permit and submit to the Zoning Commissioner, Att. John Lewis with a cover letter requesting a determination of whether or not a special hearing would be required to amend the original hearing and site plans. Parking must be provided for slips and out of water boat storage spaces.

If you have any further questions, you may contact me at 494-3391.

Very truly yours,

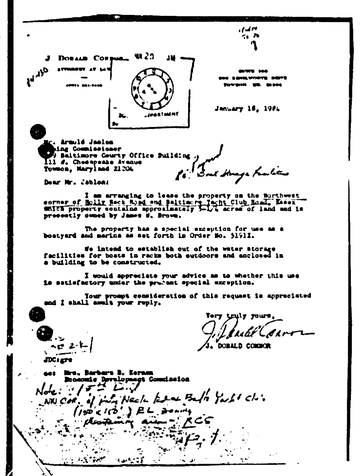
* See letter from Arnold Jablon to J. Donald Connor, dated 2/14/84 enclosed.

1266 1670
J.L./ATG

W. CARL RICHARDS, JR.
Zoning Coordinator

cc: Zoning File
Planning File
Mr. George Theis, (same address)
Mr. James M. Eurice, 500 Witch Ave. Ferndale, Md. 21061

MICROFILMED



J. Donald Connor 4820 JM

January 18, 1984

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Jablon:

I am arranging to lease the property on the Northwest corner of Holly Neck Road and Baltimore Yacht Club Road, East which property contains approximately 5-1/4 acres of land and is presently owned by James H. Eurice.

The property has a special exception for use as a boatyard and marina as set forth in Order No. 51512.

We intend to establish out of the water storage facilities for boats to rack both outdoors and enclosed in a building to be constructed.

I would appreciate your advice as to whether this use is satisfactory under the present special exception.

Your prompt consideration of this request is appreciated and I shall await your reply.

Very truly yours,

J. DONALD CONNOR

JDC:grs

cc: Mrs. Barbara B. Ieram
Economic Development Commission

Note: 1/25 Ltr
...NW Corner of Holly Neck Rd. & Baltimore Beach Yacht Club
(2434 Holly Neck Rd.) 15th Election District
(1266 / 1670) E.L. Zoning
Plan showing addition - LCC
12-7-84

Case File

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 14, 1984

J. Donald Connor, Esquire
Suite 101
606 Baltimore Drive
Towson, Maryland 21204

RE: Back Storage of Boats
Existing Special Exception
(Case No. 5191-XA)
NW/Corner of Holly Neck Road
and Baltimore Yacht Club Road -
15th Election District

Dear Mr. Connor:

Your letter of January 18, 1984 seeks information as to whether or not the establishment of out of water storage facilities for boats in the both outdoors and enclosed in a building to be constructed, would be a satisfactory use under the present Special Exception.

Please be advised that a Special Exception, Case No. 5191-XA, was granted for a boatyard and marina at the sub-ject location on January 11, 1961. Plans originally submitted with the Special Exception included a ... storage area than that presently being utilized by your boatyard. The ... of the original site which is not included in your present operation consisted of buildings, parking, boat slips, etc., while that part of the area within which you are presently operating a boatyard was set aside for boat storage with a private driveway entrance from Holly Neck Road. As a result of a recent telephone conversation, you have indicated that buildings have been constructed in this boat storage area and you simply plan to increase your boat storage capacity by utilizing these to store boats both inside and outside.

Based upon the above, it is my opinion that the original Special Exception should be amended via a Special Hearing, so as to properly indicate both the existing and proposed uses which differ from that originally set forth on the site plan submitted with the original case.

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
PETITION FOR VARIANCES
NW/Corner Holly Neck Rd. & : OF BALTIMORE COUNTY
Baltimore Yacht Club Rd.
(2434 Holly Neck Rd.), 15th Dist.

JAMES H. EURICE, Petitioner : Case No. 88-107-SPHA

: : : : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

MICROFILMED

I HEREBY CERTIFY that on this 31st day of August, 1987, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, 809 Eastern Boulevard, Baltimore, MD 21221, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER

RECEIVED
AUG 4 1989
ZONING OFFICE

August 3, 1989

Commissioner J. Robert Haines
Baltimore County
Office of Planning and zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: James Eurice - Jenkins Boatland

Dear Commissioner Haines:

As you know, the Petition to Amend the Special Exception plat and for the zoning variance has long been pending in your office. We have been awaiting recommendations and findings from the Department of Environmental Protection pertaining to the desired development. As a result of discussions with Mr. Flowers, we have agreed to amend our plan to withdraw our request for a building and simply to propose racks for boat storage on the property. This amendment raises several issues.

As you may recall, the special exception for boat yard and marina use for the property was granted back in the early 1960's. At that time, there were no setbacks for boat storage from property li... The site plan which accompanied the approved special exception indicated boat storage up to the property lines in the same area where we are now seeking boat storage. What we are doing is changing one form of boat storage for another and restricting the area in which we will be storing the boats. One question which arises is the necessity of amending our special exception plan when we are no longer putting up new buildings on the property nor any permanent piers on the site. We have been informed by Licenses and Permits that floating piers do not require permits, and although they are requesting us to obtain Building permits for the rack structures, they would appear to already be permitted under our existing special exception for boat storage. In addition, we do not believe that any variance is necessary from the property line for boat storage as we are grandfathered under our special exception to store boats up to

our property line. We no longer need a variance as we had requested for building setbacks as we are not constructing any building within the setback area. We believe that this matter now can be expedited as Mr. Flowers has found our plan to be in compliance with the critical area law, and we would appreciate any guidance which you can give us.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Mr. James Eurice
Mr. Bill Bafitis

LAW FIRM

Romadka, Gontrum & Hennegan

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER

RECEIVED
SEP 19 1989
ZONING OFFICE

September 13, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Jenkins North Marina

Dear Mr. Haines:

Last week we filed amended petitions for special hearing and for variances for Jenkins North Marina on Holly Neck Road. These petitions are in conformance with the comments filed by DEPRM with respect to the critical area. There are no changes from the comments made by DEPRM. We are awaiting to hear from your office with respect to fees due for the amended filing and to determine whether or not there is any additional information necessary.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Mr. David Flowers
Mr. Charles Anderson

MARVIN M. FOURKOP

RECEIVED SEP 2 2 1989

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

Carl - What is going on.

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER

October 27, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
OCT 30 1989
ZONING OFFICE

Re: Jenkins North Marina

Dear Mr. Haines:

As you know, we represent the new owners of Jenkins North Marina, which case has been before you for over two years for a special exception amendment and variances. We filed with your office amended petitions and site plans in the early part of September which confirms with the Critical Area findings. It is my understand that these were being reviewed for sufficiency prior to a hearing date being set. We have heard nothing to date in regards to this matter, and my client is most anxious to have this matter concluded. If there are any amendments which are necessary to put the pleadings in acceptable form, please let me know. We will try and cooperate to the fullest extent in this matter.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Mr. Anderson

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER
SHARON R. GAMBLE

May 16, 1990

Robert Haines
Zoning Commissioner
Office of Planning and Zoning
1 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
MAY 21 1990
ZONING OFFICE

Re: Case No. 88-107-SPHA
Eurice - Jenkins Marina

Dear Mr. Haines:

It is my understanding from Mr. Bafitis as well as from Mr. Richards that the above referenced file is in your office to be set for a hearing. We would appreciate proceeding with this matter at your earliest convenience. It had been my understanding from our previous conversations that you expected this matter to be set in May. We believe that we have answered Mr. Richards' questions to his satisfaction and the site plans are sufficiently clear with respect to this matter. We would appreciate your consideration in proceeding with this matter as quickly as your schedule might allow.

Sincerely yours,

John B. Gontrum

JBG:kb
cc: Mr. Charles Anderson

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER
SHARON R. GAMBLE

June 26, 1990

J. Robert Haines
Zoning Commissioner of Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

Re: Charles Anderson/Anderson Brothers Boat Sales
Case No. 88-107-SPHA

Dear Mr. Haines:

We have received notice on the above referenced matter setting it in for Tuesday, August 21, 1990 at 9:30 a.m. Unfortunately, I will be out of town from August 18th through August 26, 1990 and therefore, request that you postpone the above and advise me of the new date accordingly.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

John B. Gontrum

JBG:kb
cc: Mr. Anderson

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX # 686-0118

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER*
SHARON R. GAMBLE
MARY H. BUCHANAN

*Also admitted in Florida

April 10, 1991

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

Attn: Mr. William R. Hackett

Re: Petition for Special Hearing and Variance
C. Anderson t/a Anderson Bros. Boat Sales (formerly J. Eurice) Case No. 88-107-SPHA

Dear Mr. Hackett:

The above captioned case has been on-going since 1988. We have been long delayed in going through the Critical Area and Zoning process.

We would appreciate a speedy hearing date, for we believe the matter can be settled.

Very truly yours,

John B. Gontrum

JBG/pac

LAW FIRM

Romadka, Gontrum & Hennegan, P.A.

IRVINGTON FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
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ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN

DONALD B. SHEFFY
NANCY E. DWYER*
SHARON R. GAMBLE
MARY H. BUCHANAN

*Also admitted in Florida

August 13, 1991

Baltimore County Board of Appeals
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Anderson Marina & Boat Sales

Dear Mr. Chairman and Members of the Board:

At our hearing the other day a Baltimore County District Court proceeding against the previous owner on the existing racks on the property was noted in testimony. I thought you should be informed that this action has been dismissed by Baltimore County. These racks are indicated on our site plan as the two racks closest to the Thiess property, and one is the subject of the variance.

Very truly yours,

John B. Gontrum

JBG:ams
cc: Ms. Phyllis Friedman

Towson Branch
[illegible]

Robert P. Anderson
1141 Evergreen Road
Baltimore, MD 21221

[illegible]

BACK RIVER NECK PENINSULA COMMUNITY ASSOCIATION

P. O. Box 16754, Baltimore, MD 21221

AUGUST 20, 1990

RECEIVED
AUG [illegible] 1990
ZONING OFFICE

MR. J. ROBERT HAINES
BALTIMORE COUNTY ZONING COMMISSIONER
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204

DEAR MR. HAINES:

WE ARE VEHEMENTLY OPPOSED TO THE VARIANCES BEING SOUGHT IN CASES #88-107 SPHA AND #5191-X.

MIDDLE RIVER IS OVER PROLIFERATED WITH BOAT TRAFFIC AT PRESENT AND THE DEGRADATION OF THE RIVER COINCIDES WITH THIS GROWTH.

MOREOVER IT IS OUR FEELING THAT STORAGE RACKS AND PARKING VARIANCES ARE ONLY WAYS TO SUBVERT ZONING AND ALLOW "PHONY" CAPACITY TO AN ALREADY ABUSED RIVER.

HOW CAN WE ALLOW THESE VARIANCES TO OCCUR IN ORDER TO SUBVERT PROPER GUIDELINES AND PLANNING AND YET DUMP MILLIONS INTO THE EFFORT TO CLEAN UP OUR RIVERS AND THE CHESAPEAKE BAY AND EXPECT ANYTHING POSITIVE TO HAPPEN?

BOAT TRAFFIC ON THE RIVER IS AT GRIDLOCK, THE ROADS IN THIS VERY SENSITIVE AREA ARE NOT ADEQUATE, NOR ARE OTHER NECESSARY AMENITIES IN PLACE.

COUNTY EXECUTIVE RASMUSSEN HAS PLEDGED TO LEAD IN THE FIGHT TO SAVE OUR BAY AND THE ENVIRONMENT! YOU MUST CHOOSE BY CONTINUING THIS LEADERSHIP OR BY SUBVERTING IT WHETHER, IN FACT, THIS COMMITMENT TO THE PEOPLE OF OUR COUNTY IS REAL OR WHETHER WE WILL REVERT BACK TO THE IRRESPONSIBILITY OF THE PAST.

THE HERITAGE OF FUTURE GENERATIONS IS AT STAKE!

DENY THE VARIANCES! THEY ARE NOT IN THE BEST INTEREST OF THE PEOPLE, OUR COUNTY, OR THE CHESAPEAKE BAY.

SINCERELY,

ROBERT CHRISTOPHER
PRESIDENT

RC/bw

Name	Address
Howell R. Johnson	2445 Hollyneck Road Balto MD 21221
Mary T. Johnson	2445 Hollyneck Rd Balto MD 21221
Allen J. Arciga	2501 Holly Neck Rd Baltimore MD 21221
Marian E. Hudson	2433 Hollyneck Rd 21221
Carolyn J. Nielsen	2433 Hollyneck Rd 21221
Rose Hamed	2432 Hollyneck Rd 21221
Antonia M. Arciga	2501 Hollyneck Rd 21221
Eric J. Arciga	2501 Holly Neck Rd. 21221

Aug 29, 1990
9:30 a.m.

Case Number 88-107-SPHA

Case Number 5191-X Amendment

We the undersigned are opposed to granting a zoning variance to allow and provide parking and storage from property line as shown on plan dated 6-27-90 and to allow parking of 40 spaces for boats stored on land.

We also oppose the amending of site plan to be considered at storage racks and any additional parking facilities. These factors are not in keeping of the residents as designed.

88-107-SPHA

Sept 13, 1990

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Eric J. Arciga	2501 Holly Neck Rd. 21221
Antonia M. Arciga (Lounge)	2501 Holly Neck Rd 21221
Howell R. Johnson	2445 Hollyneck Road 21221

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Antonia M. Arciga	567 Surrey Road Timonium Md 21093
567 Surrey Road Timonium, Maryland 21093	
Mary T. Johnson	2445 Hollyneck RD Balto. MD. 21221
Howell R. Johnson	2445 Hollyneck Road Balto MD 21221

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Thomas Ennis (Att.)	2000 York Rd Timonium MD 21093
Robert Haft (Att.)	2000 York Rd Timonium MD 21093
Robert Haft Co.	200 E. Joppa Rd 21286
The B. H. Co.	200 E. Joppa Rd 21286

88-107-SPHA

Sept. 13, 1990

PLEASE PRINT CLEARLY — PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
C. N. Anderson Jr.	567 Surrey Rd Timonium MD 21093
Albert P. Anderson	2nd Mountain Rd Pasadena MD 21122
Marian M. Harris, Jr.	1249 Evergreen Rd Balto MD 21221

ORIGINAL

1

IN THE MATTER OF: * BEFORE THE
* COUNTY BOARD OF APPEALS

* * * * *

The above-matter came on for hearing before the County Board of Appeals of Baltimore County, at the County Office Building, at 10 o'clock a.m., July 31, 1991.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
LYNN MORELAND
HARRY E. BUCHHEISTER, JR.

Reported by:
C.E. Peatt

BOARD OF APPEALS

1

IN THE MATTER OF: * BEFORE THE
CHARLES N. ANDERSON, JR. * COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* Case No. 88-107-SPHA
* July 31, 1991

* * * * *

The above-matter came on for hearing before the County Board of Appeals of Baltimore County, at the County Office Building, at 10 o'clock a.m., July 31, 1991.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
LYNN MORELAND
HARRY E. BUCHHEISTER, JR.

Reported by:
C.E. Peatt

BOARD OF APPEALS

INQ DATE 12/16/88 OFFICE OF ASSESSMENTS INQUIRY (1) TIME 15:59:26

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	AREA	CAPD-NO	DEL	F/M DATE
15-16-092610	15	3 PH2	29	NC	00012	15456		11/10/87

PRIMARY DESC... A 5.16 AC NS
SUPPLEMENTAL DESC.. HOLLY NECK RD
IMPRV ADDRESS HOLLY NECK RD NS
NEAREST INTER.... 0550 E FRANKEWITZ RD
STRUCTURE.... STATE CODE..

EURICE JAMES H
00608 WILTON AV
FERNDALE MD 21061

LOT....	MAP..... 098	FRONT. 428.09	TRANSFER DATE.... 12/16/86
BLOCK....	BLOCK..... 21	BACK.. 294.40	TRANSFER NO..... 067056
SECTION...	PARCEL. 00148	SIDE1. 309.43	PURCHASE PRICE 294,400
PLAT.....	LIBER.. 7357	SIDE2. 491.20	GROUND RENT..... 0
BOOK.....	FOLIO... 0468	FORMER OWNER. JAMES W BROWN & SONS INC	
FOLIO....		SQ FT LOT.... 0 (A)	

FULL VALUE	LAND	IMPRV	PREF-LAND	CURTILAGE	EX LAND	EX IMPRV	BLIND
CURRENT	137,920	104,910	0	0			
PROPOSED	190,510	135,980	0	0	0	0	0

****BASIS****	YRMO	TAX LAND	TAX IMPRV	ADVAL	EX LAND	EX IMPRV	EX ADVAL
89/90 ASSESSMT	8811	0	126,900	126,900	0	0	0
88/89 ASSESSMT	8710	0	116,970				
87/88 ASSESSMT	8611	0	105,570				

88-107 SPHA Protestants 2

I am against Rock Storage

Denise Stenk	1100 Engleberth Rd
Jim Mitchell	1241 Engleberth RD
Robert Miller	1215 Engelberth Rd
BILL NEUKAM	1213 ENGLEBERTH. Rd
Lillian Neukam	1213 ENGLEBERTH. Rd.
Elizabeth Baker	1209 Engleberth Rd.
Debra Mayer	1205 Engleberth Rd.
Robert Mayer	1205 Engleberth Rd.
Brugger	1201 Engleberth Rd.
Ed Schaling	1147 Engleberth Rd.
Catherine Wobbleton	1145 Engleberth Rd.
Mechild Miller (summer)	1145 Engleberth Rd.
Linda Sink	1131 Engleberth Rd
Patti Arkuszewski	1131 Engleberth Rd.
Andrew J Fockelbelt	1129 Engleberth Rd
Teresa M Fockelbelt	1129 Engleberth Rd
Marie Taylor	1126 Engleberth Rd.
Barbara Spedaline	1119 ENGLEBERTH RD

88-107 SPHA Protestants 3

PROTESTANTS 88-107-SPHA

Name	Address		Tel
K. Johnson	2445 Hollyneck Road	21221	687-8250
Chas. T Wrighton	2116 Holly Neck Rd	21221	687-4011
Carl Maynard (Assessor)	1546 Denton Rd	21221	682-4813
Lizzie Dawson	3312 Taylor Rd	21221	574-3517
Bob Christopher	2116 Holly Neck Rd. 21221		687-4011
GEORGE NEUKAM	2208 POPLAR RD 21221		391-2174
VIRGINIA E. BRINKMANN	2320 Poplar Rd 21221		391-7236
ERIC J. ARNOLD	2501 Holly Neck Rd.		687-0120
ALT BEAN	2112 Pegsun RD		574-3517
AL CLASING JR.	2025 HOLLY NECK		686-1085
Marie Clasing	" "		"
Charles Christopher	2116 Holly Neck Rd		687 4011
Betty Christopher	2116 Holly Neck Rd		687 4011

88-107 SPHA Protestants 4

James Robert Haines September 18, 1987
Zoning Commissioner, Planning & Zoning
Robert W. Sheesley, Director

Jenkins North Marina

Location: Subject property is located on the Northwest corner of Baltimore Yacht Club Road and Holly Neck Road, containing 5.0871+ acres of land.

Existing Use: This property is currently being used as a boat marina. The site has a boat show room, maintenance building, boat ramp, bulkhead, 2 small piers. The remainder of the tract is of stone and gravel for the parking of cars, storage of boats and boat trailers. There is also some vegetation consisting of grass, underbrush and trees.

The plan (dated 4/20/87) for this property, indicates a proposed holding pier. A field visit was made to the site by David Flowers. This pier is now in place. The permit for this structure is in question.

Zoning: The existing Zoning is RC5 and BL. The property has a Special Exception on it, number 5191-X.

Request: This is a petition for a Special Exception requesting an amendment to Case No. 5191-X to allow construction of a new building and to determine parking requirements. There is also a petition for a Zoning Variance that is requesting a setback of 36 feet in lieu of the required 50 feet; a setback of 47 feet to the center line of the street in lieu of the required 75 feet; to permit 36% of the lot to be covered by buildings in lieu of the required 15%; and to permit a stone paving in lieu of the required durable and dustless surface.

PETITIONER'S EXHIBIT 4A
88-107

88-107 SPHA Petitioners 2

Memo to James Robert Haines
Zoning Commissioner
September 18, 1987
page 2

Chesapeake Bay Critical Areas: This property is part of the Chesapeake Bay Critical Area and is in the Limited Development Area (L.D.A.). It is important to note that expanded commercial marinas are allowable in the L.D.A.

Additional information is requested so that impacts on water quality, wildlife, plant habitats and aquatic vegetation could be assessed in order to determine whether this proposed expansion meets the Chesapeake Bay Critical Area Requirements. Please address the following:

- That this will not significantly alter the existing circulation patterns of the water or its salinity regimes.
- That this portion of Sue Creek has adequate flushing characteristics in the area.
- That disturbance to wetland, aquatic vegetation, or other areas of aquatic habitats be minimized.
- That adverse impacts to water quality that may occur as a result of this proposal, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.
- If dredging is to be conducted, that it will be in a manner, and using a method, which causes the least disturbance to water quality, aquatic and terrestrial habitat in the area immediately surrounding the dredging operation.
- That there will be no means of minimizing the discharge of bottom sediments into tidal waters.

Since their property is in a Limited Development Area, and no forest or developed woodland exists on the development site, the applicant must afforest 15% of the site according to an approved Forest Establishment Program. In addition, the sum of all man-made impervious areas shall not exceed 15% of the lot, parcel or property proposed to be developed.

PETITIONER'S EXHIBIT 4A
88-107

Memo to James Robert Haines
Zoning Commissioner
September 18, 1987
page 3

The proposed plan did not indicate existing soil designations. Development on soils having development constraints may be allowed, if it includes mitigation measures that adequately address identified constraints and that will not have significant adverse impacts on water quality or plant, fish or wildlife habitat.

A stormwater management system shall be designed so that this proposal will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher volume or rate that would have resulted from a 10-year frequency storm if the property had remained in a pre-development state.

On 9/17/87, this Department received a revised plan dated 9/16/87. The plan has a vegetated buffer along the water. It separates the bulkhead and the stone gravel parking area. The plan eliminates the existing boat ramp and building of a new bulkhead. This detail needs to be shown better on the plan. Also, a new storm water management facility is indicated on the northeast corner of the site. This new information does not answer our concerns. More detailed plans, and information is needed before a fiscal decision can be made.

However, it would be possible that the proposed building can be built and still satisfy the 15% impervious requirement, if the runoff that is in excess of the 15% can be handled on site and the collected water so released in a central matter using B.M.P. Again, more discussion, work and information is required before this Department can take a positive position.

It is a unique concept in Baltimore County to have a marina proposal that will not store or harbor boats in the water. All boats will be on land, and within the proposed building. Boats or boat trailers will not be stored in the parking area, and the parking area will be of stone and gravel. This of this is in the spirit in achieving the goal of the Chesapeake Bay Critical Area Program.

PETITIONER'S EXHIBIT 4C
88-107

MICROFILMED

Memo to James Robert Haines
Zoning Commissioner
September 18, 1987
page 4

The plan indicates that there will be a larger facility on the property, this in turn will increase the number of people using the facilities which will incur the use of sanitary facilities. This issue must be addressed in lieu of septic system failure in the area.

Should there by any questions regarding this matter, please contact David Flowers at 494-3980.

Robert W. Sheesley
Director
DEPARTMENT OF ENVIRONMENTAL PROTECTION
and RESOURCE MANAGEMENT

RWS:bah :DCF

cc: Norman E. Gerber
David C. Flowers
Janice B. Outen

PETITIONER'S EXHIBIT 4D
88-107

MICROFILMED

RECEIVED
AUG 18 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: August 14, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Special Hearing to amend Special Exception No. 5191-X and to determine parking requirements.
Jenkins North Marina, Property of Mr. James H. Eurice
Chesapeake Bay Critical Area Findings

PETITIONER'S EXHIBIT 7

SITE LOCATION

The subject property is located at 2434 Holly Neck Road along Sue Creek off of Middle River, and is classified as a Water-Dependent Facility within a Limited Development Area.

APPLICANT'S NAME Mr. James H. Eurice

APPLICANT PROPOSAL

The applicant has requested a Zoning Variance from Section "1A04.3.B.3 to permit a setback of 34 feet in lieu of the required 50 feet and a setback of 58 feet in lieu of the required 75 feet, and from Section 409.2.C.(2) to permit stone paving in lieu of the required durable and dust free surface."

The applicant has also requested a Special Hearing to amend an already existing Special Exception for a marina and to determine parking requirements. The marina has existed on the property at least since the Special Exception, which was granted in 1961. The applicant has prepposed to amend the Special Exception by placing four boat racks for the storage of boats on the 5.087 acre site. Currently, boats are stored throughout the site, some in existing racks.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;

MICROFILMED

88-107 SPHA Petitioners 6

John L. Schneider, P.E.
ENGINEERING & CONSTRUCTION CONSULTANT
100 North Rolling Road
Catonsville, Maryland 21228
(301) 744-1945

August 2, 1988

Jenkins Boat Land
2434 Holly Neck Road
Baltimore, Md. 21221

Re: Engineers Certification-Footings
Lot.#
Address:2434 Holly Neck Road
Permit #-
Subdivision/Project:Boatel Development

Gentlemen,

At your request, I inspected the footings at the above location and found the following:

pier footings excated
soil bearing capacity approx. 3000 psf
entire footing meets frost protection requirements

Based on these facts and my observations, I am pleased to certify these footings as meeting code requirements for use in this type structure. If there are any questions on this or other projects please contact my office.

Sincerely,
John L. Schneider, P.E.

88-107-SPHA Petitioner's 9

RENTAL AGREEMENT
301/574-8281 — 2434 Holly Neck Road
MIDDLE RIVER, MARYLAND 21221

Slip or Space No.

This agreement entered into this 1st day of April 19 91 by and between Anderson Bros. Boat Sales
2434 Holly Neck Rd. County of Baltimore State of Md.
hereinafter known as the LANDLORD and Wallace Barrows who resides at 204 Medbury Rd.
Timonium, Md. 2109 hereinafter known as the TENANT, subject to the following terms and conditions

1. The SPACE RENTAL AGREEMENT is for a period from April 1 19 91 to March 31 19 92 inclusive and may be renewable for additional periods upon agreement of both parties as to rates, conditions, space involved, and payment of all specified fees and services. Name of Boat _____ Home Port Baltimore

BOAT: Make Regal Model _____ Year 1988
Serial No. RGMX1030K788 Hull Glass Deck _____ Beam _____
Length O/A 22' Color Blue/Wht Registration No. MD3267AU

MOTOR: Make Mercruiser Model _____ Year 1988 Fuel Type Gas
HP 260 Fuel Capacity _____ Drive _____ Serial No. 0N904618

TRAILER: Make N/A Model & Year _____ Serial No. _____

ONLY ITEM(S) MARKED "X" BELOW APPLY TO THIS AGREEMENT

X DRY STORAGE	X HALON SYSTEM	☐ WINTER	☐ TRAILER STORAGE
X OUTSIDE	☐ MONTHLY	☐ OUTSIDE	☐ MONTHLY ☐ YEARLY
☐ INSIDE	☐ SEASON	☐ INSIDE	☐ SEASON
RATE: $ 750.00 YEARLY		RATE: $	

INTEREST AT THE RATE OF _____ % PER MONTH (ANNUAL PERCENTAGE RATE _____ %) WILL BE ADDED TO ALL PAST DUE ACCOUNTS. AN ACCOUNT IS PAST DUE _____ DAYS FOLLOWING DUE DATE.

SPECIAL TERMS AND CONDITIONS

SEE ATTACHED ADDENDUM (MARINA RULES AND CONDITIONS)

NOTICE: CHECK BOX ABOVE, HALON SYSTEM IF INSTALLED

Note:credit from W.O.#73897 has been deducted.

TENANT AGREES THAT ALL CHARGES FOR SPACE RENTAL, REPAIRS, GAS, OIL, HARDWARE, ACCESSORIES OR ANY OTHER SERVICES OR MATERIALS ACCRUING UNDER THE TERMS OF THIS CONTRACT SHALL GIVE THE LANDLORD A VALID LIEN UPON TENANT'S BOAT AND/OR MOTOR AND THAT NO BOAT SHALL BE REMOVED FROM THE LANDLORD'S PREMISES UNTIL ALL CHARGES ARE PAID.

It is agreed that this contract is performable and venue shall be in the State and County of LANDLORD.

All notices required by this Boat Space Rental Agreement or the Law shall be to the addresses stated herein.

Tenant's Insurance Co. Allstate Ins. Co.
Address 305 W. Chesapeake Ave.
City, State & Zip Towson, Md. 21204
Agent Judy Thompson/ 321-8414

SPACE RENTAL FEES & SERVICES

☐ DRYSTORAGE	
☒ OUTSIDE DRY STORAGE	$ 750.00
☐ WATER STORAGE	
☐ TRAILER STORAGE	
☐	
☐	
A. TOTAL SPACE RENTAL FEES	$ 750.00
Services Required	
☐ HAULOUT	
☐ LAUNCH	
☐	
☐	
☐	
B. TOTAL SERVICES	$ 750.00
SUB-TOTAL (A & B)	$
PLUS APPLICABLE SALES TAX	$
TOTAL	$
LESS ADVANCED DEPOSIT(S)	$ 143.00
THIS AMOUNT DUE	$ 607.00

credit 143.00 #M/L 303.50 #M/L 303.50 #M/L 303.50

Tenant's Signature _____ Date _____
Landlord's Signature _____ Date _____

Tenant's Mailing Address _____
Address 204 Medbury Rd.
City _____ State _____ Zip Code _____
City Timonium State Md. Zip Code 21093
Home Phone _____ Work Phone 252-2168

BILLING DURING THIS PERIOD TO BE MADE TO WHICH ADDRESS? ☐ TEMPORARY ☒ HOME
Employed by Retired Address _____
Boat is: ☐ H.D. ☐ N.H.D. ☐ T.T. Make Ind Model _____ Year _____ Length _____ Hull Material _____
In case of emergency, notify Name Peter M Barrows (Son) Address 36 Silver Fox Ct. Cockeysville, Md. Phone 666-1819
Co. _____ Address _____ Phone _____

TENANT(S) CERTIFY THAT THE PRINTED MATTER ON BOTH FRONT AND BACK OF THIS AGREEMENT HAS BEEN READ AND THE TERMS AND CONDITIONS SET FORTH HEREIN ARE FULLY UNDERSTOOD. TENANT(S) FURTHER CERTIFY THAT THEY HAVE EXAMINED THE SPACE IN WHICH THE SUBJECT BOAT IS TO BE PLACED AND FIND IT SUITABLE AND ACCEPTABLE.

LANDLORD: Anderson Brothers Boat Sales
BY: Charles Anderson / Cathy E Anderson

Anderson Brothers Boat Sales
2434 Holly Neck Road
Baltimore, Maryland 21221
(301) 574-8281

January 15, 1991

MARINA RULES AND CONDITIONS

Gasoline is not to be carried onto the premises or dumped into boats on the premises or from the pier.

No open flames or fires of any types (grills, etc.) are allowed on the premises.

No discharge from bilge should be made while boat is at the pier. Please comply with all existing Environmental Rules and help keep our water clean and safe.

Boats must be equipped with Halon Systems (Available through the service department if not customer installed.)

Parking should be in designated areas only.- Absolutely NO parking in rack areas or in areas where the forklift operates.

All water hoses must have automatic shut-off nozzles.

All trailers should have the owners name written in the trailer tongue and must be registered with the Marina office.

Boats will be put in the water for owners only.

No one is allowed on boats while they are on the forklift.

Customers are not allowed on the forklift.

All outside contractors must report to the Marina office with proof of liability insurance and Workmen's Compensation insurance before performing any work at this Marina.

Boating safety rules should be practiced at all times, for your safety, as well as the other rack customers.

Please use dumpster when discarding trash. Help us keep your Marina clean.

The lift will open from April 15 thru Nov.3, 7 days a week, 9 to dusk. Nov.4 thru Dec.1, Mon. thru Sat, 9 to 6.

Dec.2 thru April 14, special arrangements can be made with 48 hours notice.

Nov.3 thru April 14, the Marina will be closed on Sundays during the off-season.

88-107-SPHA Petitioner's 8

APPEAL

Petition for Special Hearing and Zoning Variance
NW/Corner Holly Neck Road and Baltimore Yacht Club Road
(2414 Holly Neck Road)
15th Election District - 7th Councilmanic District
CHARLES N. ANDERSON, JR. - Petitioner
Case No. 88-107-SPHA

- Petitions for Special Hearing and Zoning Variance
- Description of Property
- Certificate of Posting
- Certificate of Publication
- Entry of Appearance of People's Counsel
- Zoning Plans Advisory Committee Comments
- Director of Planning & Zoning Comments (None submitted)

Petitioner's Exhibits:
1. Copy of Plan - Sun Marine
2. Photos of Docks
3. Plat approved by OPZ (Case No. 5191)
4A. - 4D. - Comment Report from DEPRM (1987)
5. Plat to accompany Petitions (Sheet 1 of 2)
6. Plat to accompany Petitions (Sheet 2 of 2)
7. Comment Report from DEPRM (1989)
8. Plat to accompany Petitions (Sheet 1 of 2)
9. Plan - Sun Marine
10. 6 Photos of marina
11. Several Photos of marina

Protestant's Exhibits:
1. 11 Photos of marina area

Zoning Commissioner's Order dated October 23, 1990 (Granted with restrictions)

Notice of Appeal received November 21, 1990 from People's Counsel

cc: Charles N. Anderson, Jr. - 2804 Mountain Road, Pasadena, MD 21122
John B. Gontrum - 814 Eastern Boulevard, Baltimore, MD 21221
Albert R. Anderson - 1[illegible] Evergreen Road, Baltimore, MD 21221 not a good address 11/27/91
Mr. & Mrs. Anthony M. Ferrante
2414 Holly Neck Road, Baltimore, MD 21221 ////
People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204
Copy of Opinion to Jack Helman

Protestant's Exhibit 1
88-107-SPHA

MICROFILMED

Petitioner's Exhibit 10
88-107-SPHA

Petitioner's Exhibit 11
88-107-SPHA

88-107-SPHA

MICROFILMED

PETITIONER(S) EXHIBIT (2) 88-107-SPHA

88-107-SPHA Petitioner Head

MICROFILMED

PETITIONER(S) EXHIBIT (2) 88-107-SPHA

MICROFILMED

88-107-SPHA Petitioner Marina



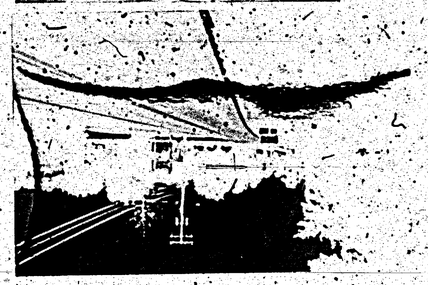


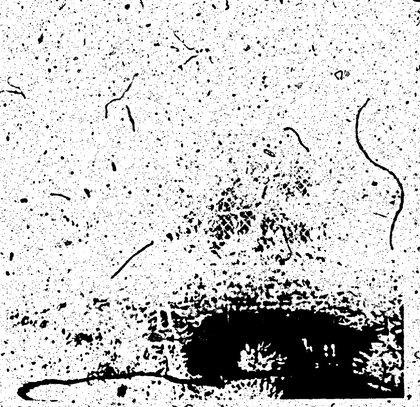




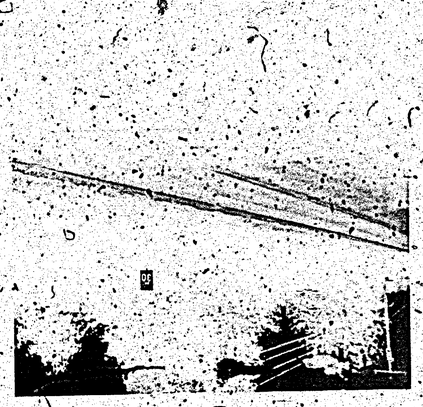




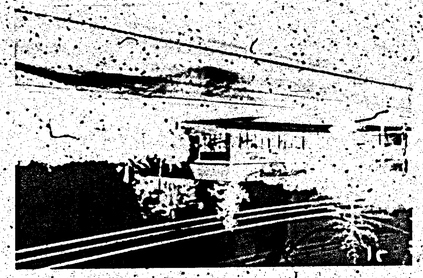




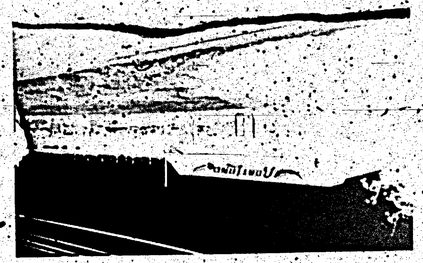






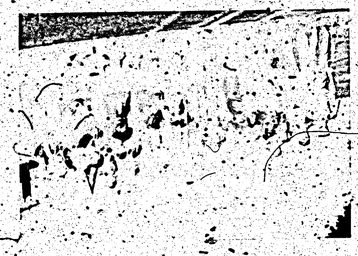






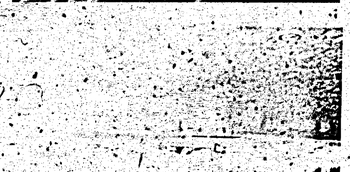










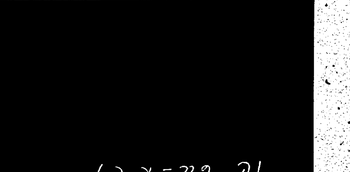




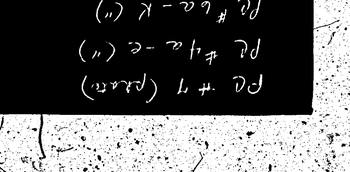








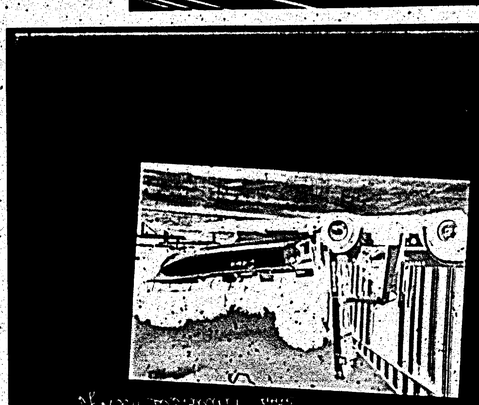




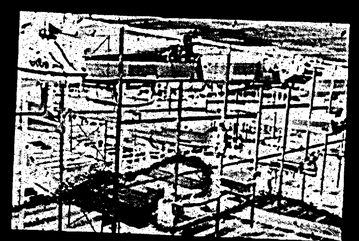


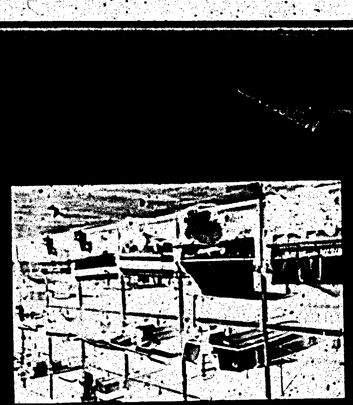


PE #7 (Attn)
PE #4 & -E (")
PE #6 & -K (")

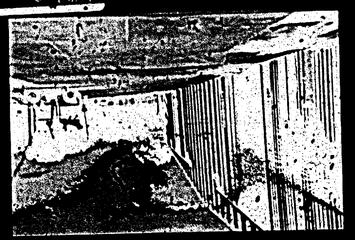


PETITIONER(S) EXHIBIT 21 88-107-SPHA



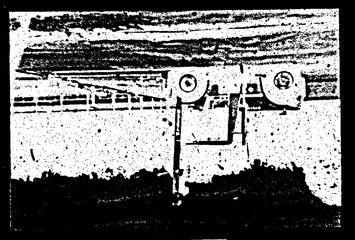


PETITIONER(S) EXHIBIT 21 88-107-SPHA





PETITIONER(S) EXHIBIT 21 88-107-SPHA

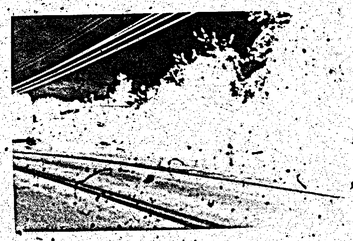


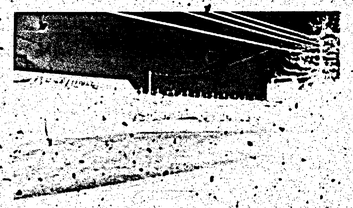






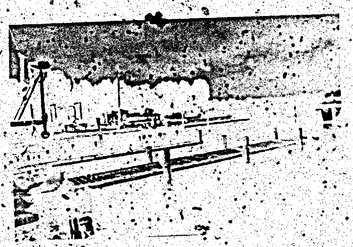








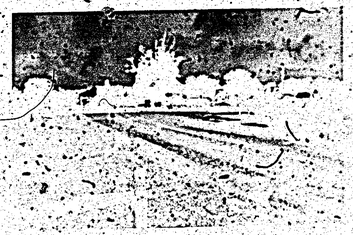




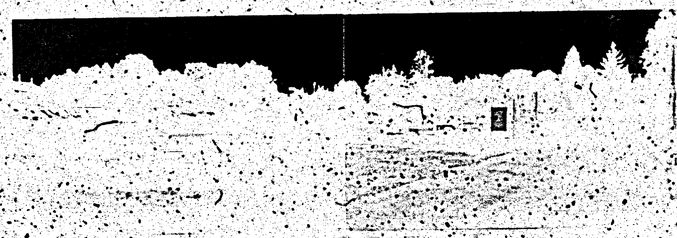


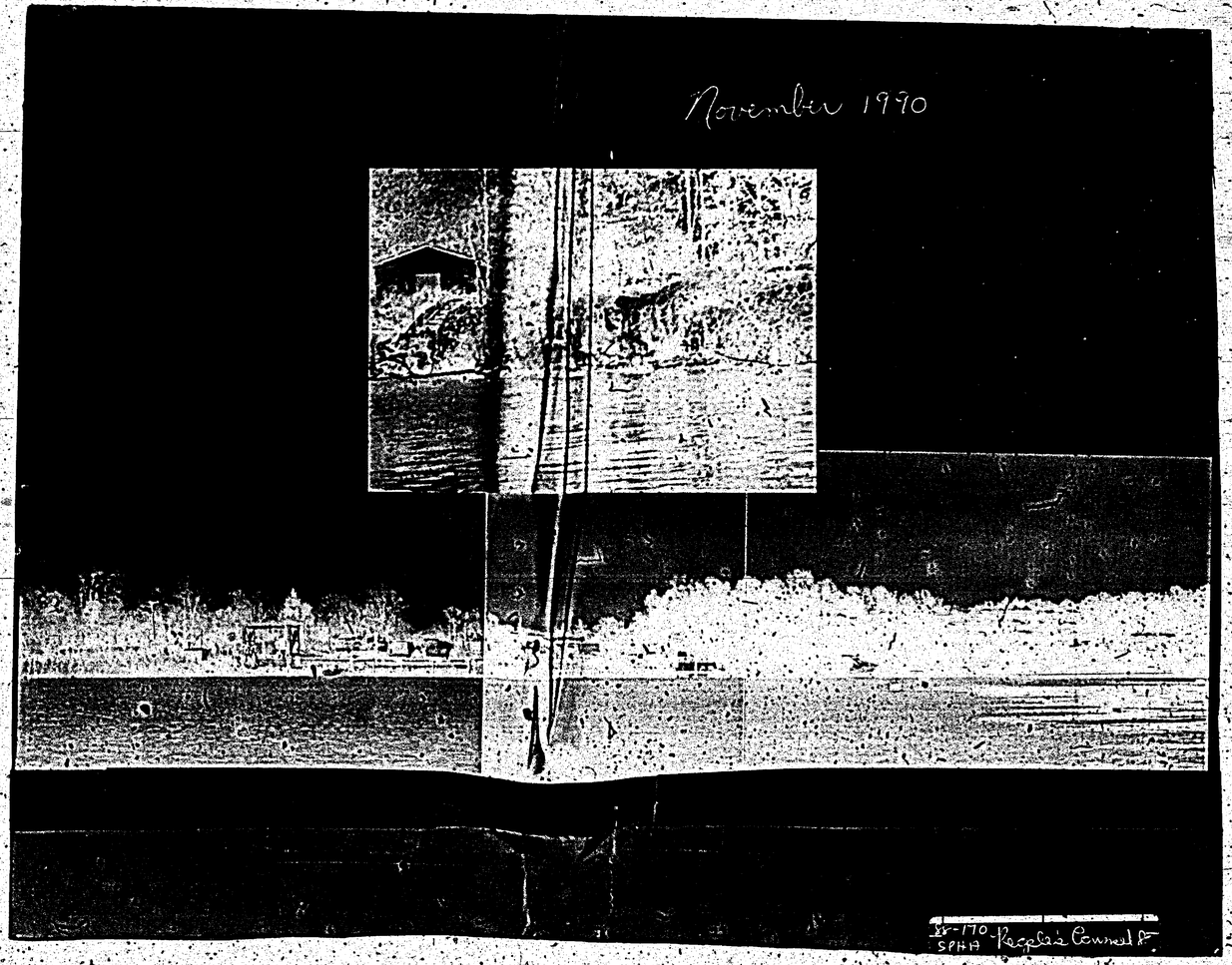


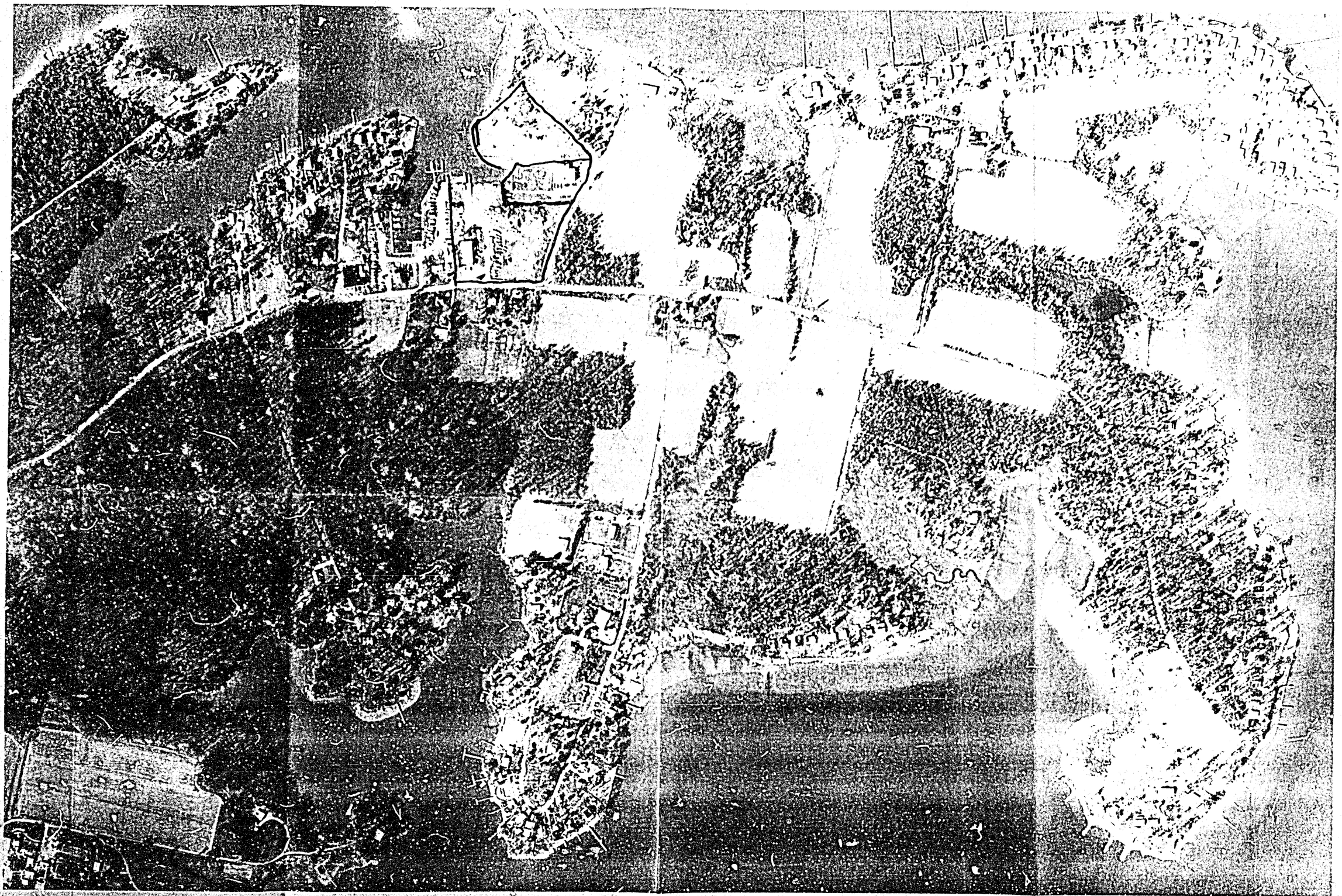









November 1990
SPHA - Keepsake Connect

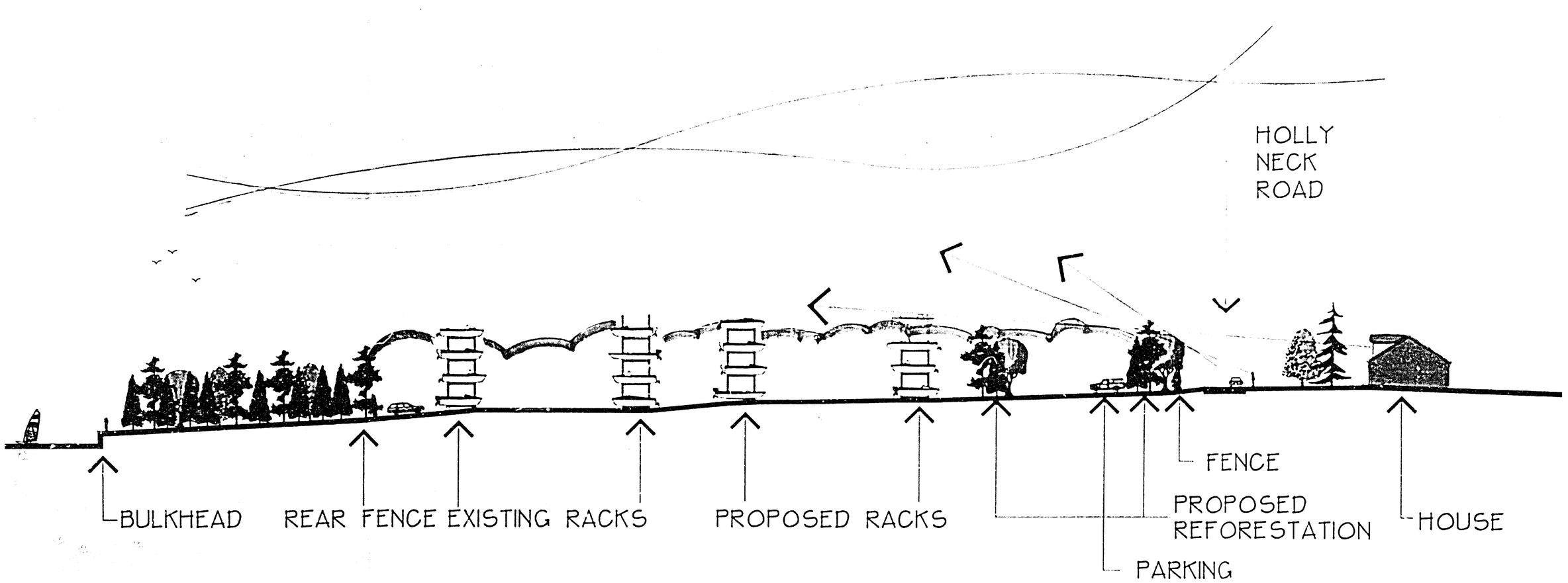


PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W. V. 25401

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

SCALE	LOCATION	SHEET
1" = 200'±	HOLLY NECK	S.E. 2-K
DATE OF PHOTOGRAPHY JANUARY 1986		

88-107-A
(SPHA People's Counsel 1)

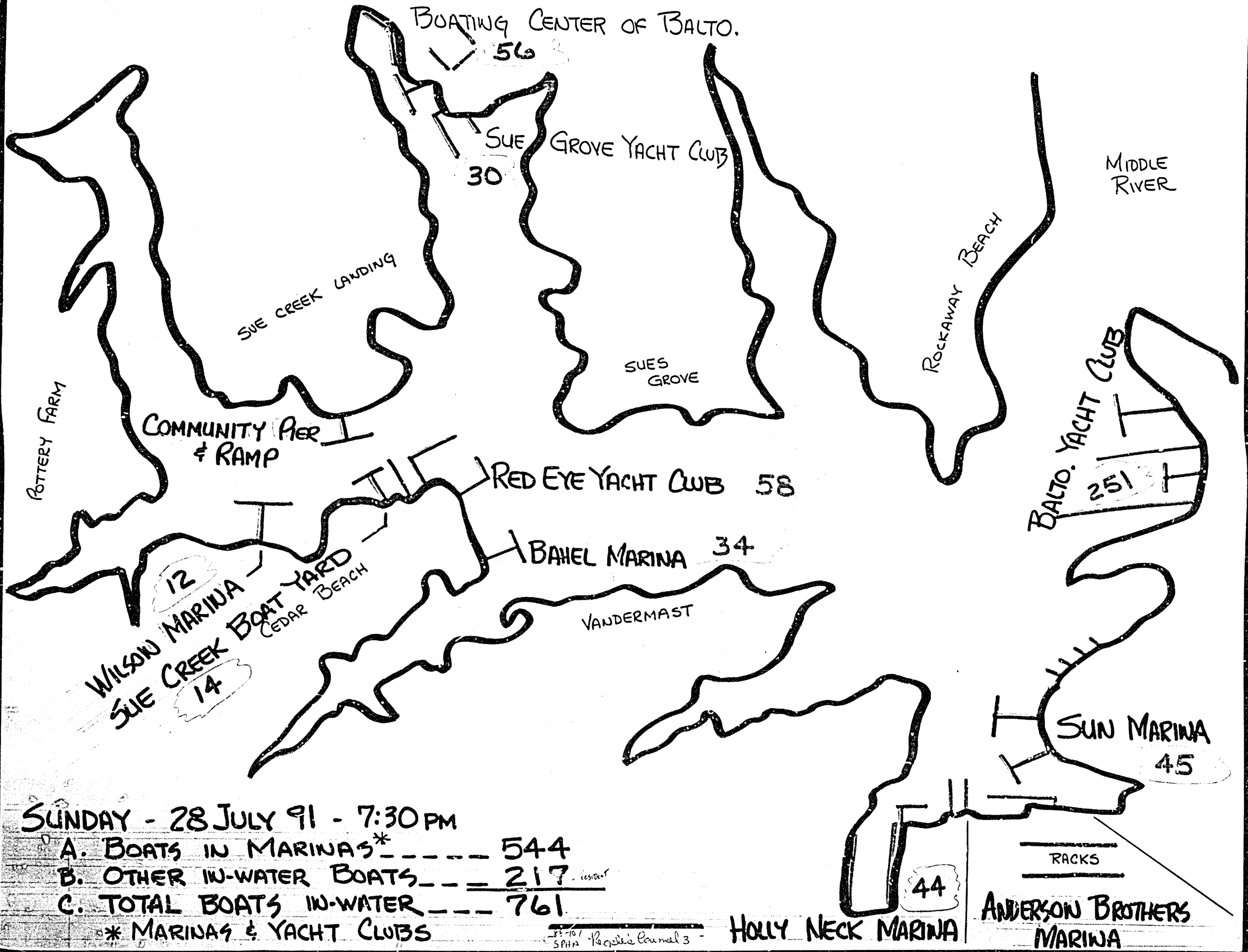


William N. Baffia, P.E.
301-38*-2336
Baffia & Associates
Civil Engineers/Land Planners/Surveyors
1249 Engleberth Rd. Baltimore, MD 21221

ANDERSON BROTHERS BOAT SALES
SECTION THRU BOAT STORAGE RACKS

SCALE 1"=20'

88-107
SPHA Petitioner's 8 HE Exhibit

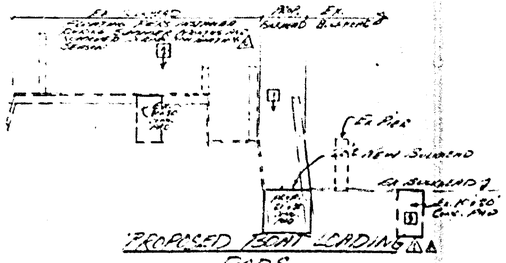


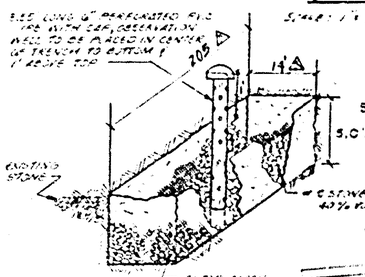
SUNDAY - 28 JULY 91 - 7:30 PM

A. BOATS IN MARINAS*	544
B. OTHER IN-WATER BOATS	217
C. TOTAL BOATS IN-WATER	761

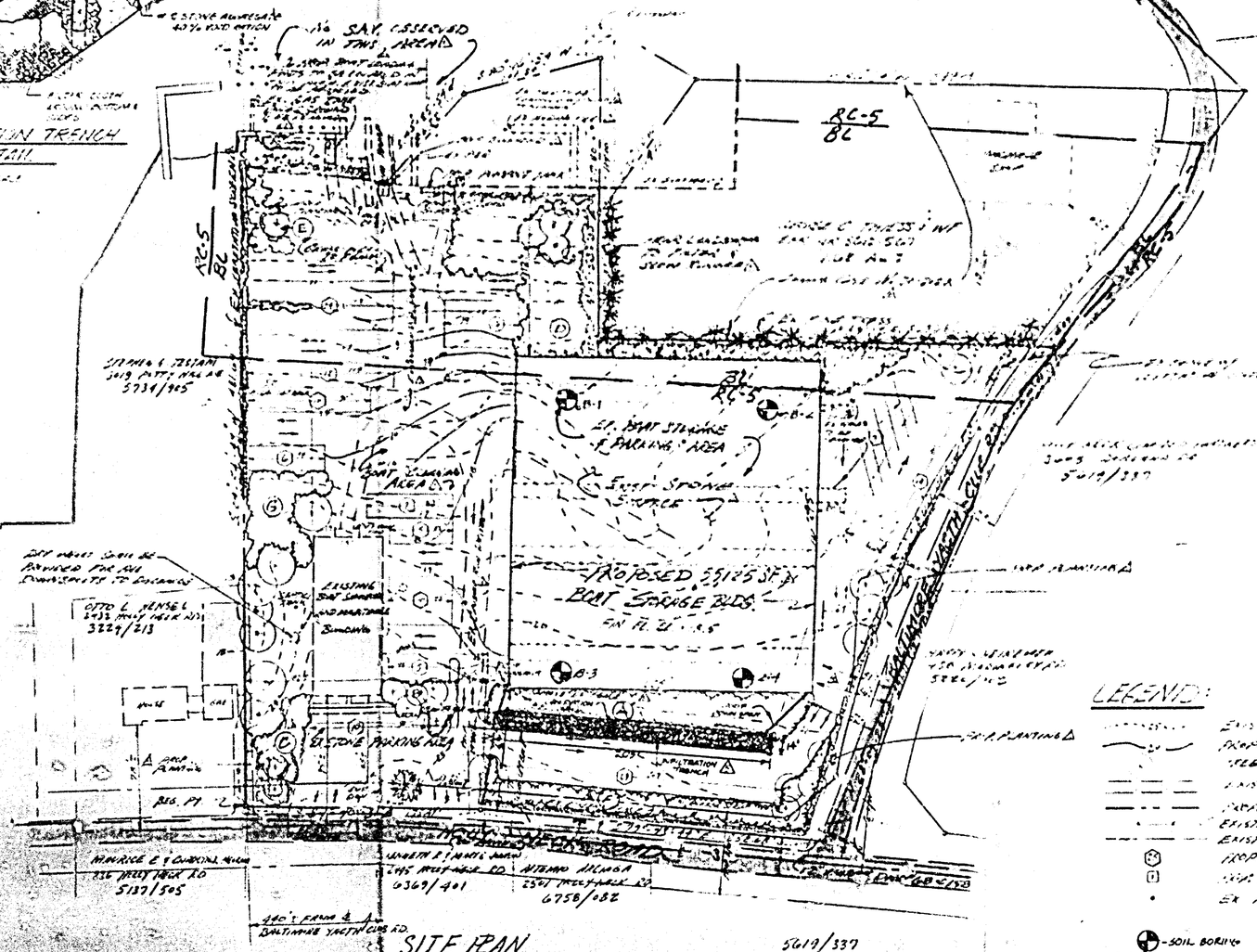
* MARINAS & YACHT CLUBS

87-101 SPHN Rachel Carmel 3





INFILTRATION TRENCH DETAIL
NO SCALE



SITE PLAN
SCALE: 1" = 50'

IMPERVIOUS SURFACE:

	EXISTING	PROPOSED
EX. RUNWAY =	6221 SF	6221 SF
PROP. RUNWAY =		5125 SF
EX. SHED/MISC. =	440 SF	440 SF
EX. ASPHALT AREA =	5,400 SF	5,400 SF
PROP. ENTRANCE AREA =		400 SF
EX. CONC. AREA =	600 SF	600 SF
TOTAL	6221 SF + 5,400 SF + 600 SF = 12,221 SF = 0.28 AC	6221 SF + 5125 SF + 440 SF + 5,400 SF + 400 SF + 600 SF = 18,186 SF = 0.42 AC

12,221 / 43,560 x 100 = 28% ± (ALLOWED)

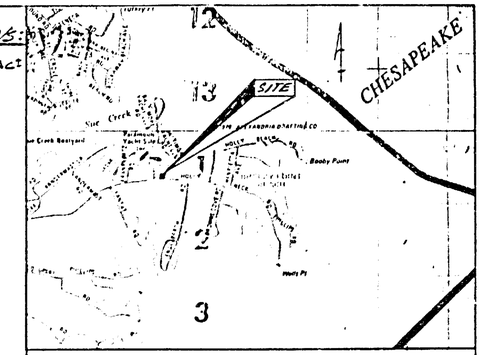
PROPOSED IMPERVIOUS SURFACE

AFFORESTATION CALCULATIONS:

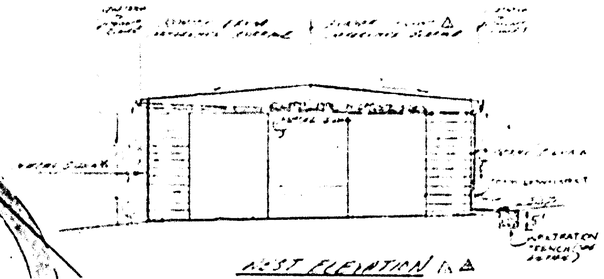
REQUIRED: 15% x 5.011 AC± = 0.752 AC± (LESS WOODS)

PROVIDED:

AREA (A)	=	5,175 SF
B	=	1575 SF
C	=	2,200 SF
D	=	11,690 SF
E	=	2,100 SF
F	=	5,125 SF
G	=	2,300 SF
TOTAL	=	32,965 SF OR 0.757 AC ±



LOCATION MAP
SCALE: 1" = 2000'


EXISTING SHED
EXISTING OFFICE
EXISTING STORAGE
EXISTING BOAT STORAGE
EXISTING BOAT LOADING RAMP
EXISTING PIER
EXISTING BOAT LOADING RAMP
EXISTING PIER
EXISTING BOAT STORAGE
EXISTING OFFICE
EXISTING SHED

NOTE: ALL PROPOSED OR FUTURE WORK SHALL CONFORM TO BALTIMORE COUNTY, STATE OF MARYLAND AND FEDERAL REGULATIONS.

NOTICE: This plan has been prepared in accordance with section 417.3 Baltimore County zoning regulations stated below:

417.3: Where proposed construction will conflict with existing facilities, it will be the duty of the office of planning and zoning to specify the limits of construction to conform as closely as possible to the rules as set forth herein so as to cause the least interference with existing and/or possible future construction. Notice of the proposed construction shall be given by the department of permits and licenses to adjoining property owners affected. (bill no. 6A, 1963)

The Undersigned have Reviewed this Plan and are in agreement on the Contents

Owner: Dennis Peterson No. 850 Baltimore Yacht Club Road — Date 8/6/90

Owner: George Thiess No. 900 Baltimore Yacht Club Road — Date 8-5-90

Owner: Charles Anderson No. 2438 Holly Neck Road — Date 8.5.90

SUE CREEK

CEDAR GROVE RD.

12

tyeexisting finger piers

ex. bulkhead typ.

S04°54'43"W 481.69'

RETAIL BUILDING

EX. TRAVEL LIFT TO BE REMOVED

FUTURE FLOATING PIER

EX. BOAT RAMP TO BE REMOVED

No. 2434 HOLLY NECK RD.
OWNER: CHARLES ANDERSON
liber 7357-folio 468
5.01 Acres±

2-FUTURE FLOATING PIERS

DASH DENOTES TO BE REMOVED

EX. BULKHEAD

N05°53'25"E 218.42'

N39°10'W 38.80'

S50°49'35"W 224.27'

SCREENHOUSE

EX. FINGER PIERS TYP.

EX. BULKHEAD

DIVISIONAL PROP. LINE

ex. bulkhead typ.

existing floating piers

Maintain 20' Open Area-No Construction

209.8'

The shaded area denotes a use agreement affecting riparian rights for use in common by George Thiess, Dennis Peterson and Charles Anderson, their heirs and assigns. No construction or permanent dockage shall take place in this area.

DIVISIONAL PROPERTY LINE

80'

EXIST. PILES

ex. fingerpiers

ex. mooring piles

S35°26'05"E

S39°30'00"E

ex. piers

NEW LOCATION OF RAIL TO BE RELOCATED

OLD LINE DENOTES EXISTING BULKHEAD (TYPICAL)

EXISTING CONCRETE RAMP TO BE REMOVED AND REPLACED WITH CONCRETE SLAB

RAIL TO REMAIN

TRAVEL LIFT RAIL TO BE RELOCATED

BASELINE

RESTROOM

No. 850 TRAILER

S35°26'05"E 120'

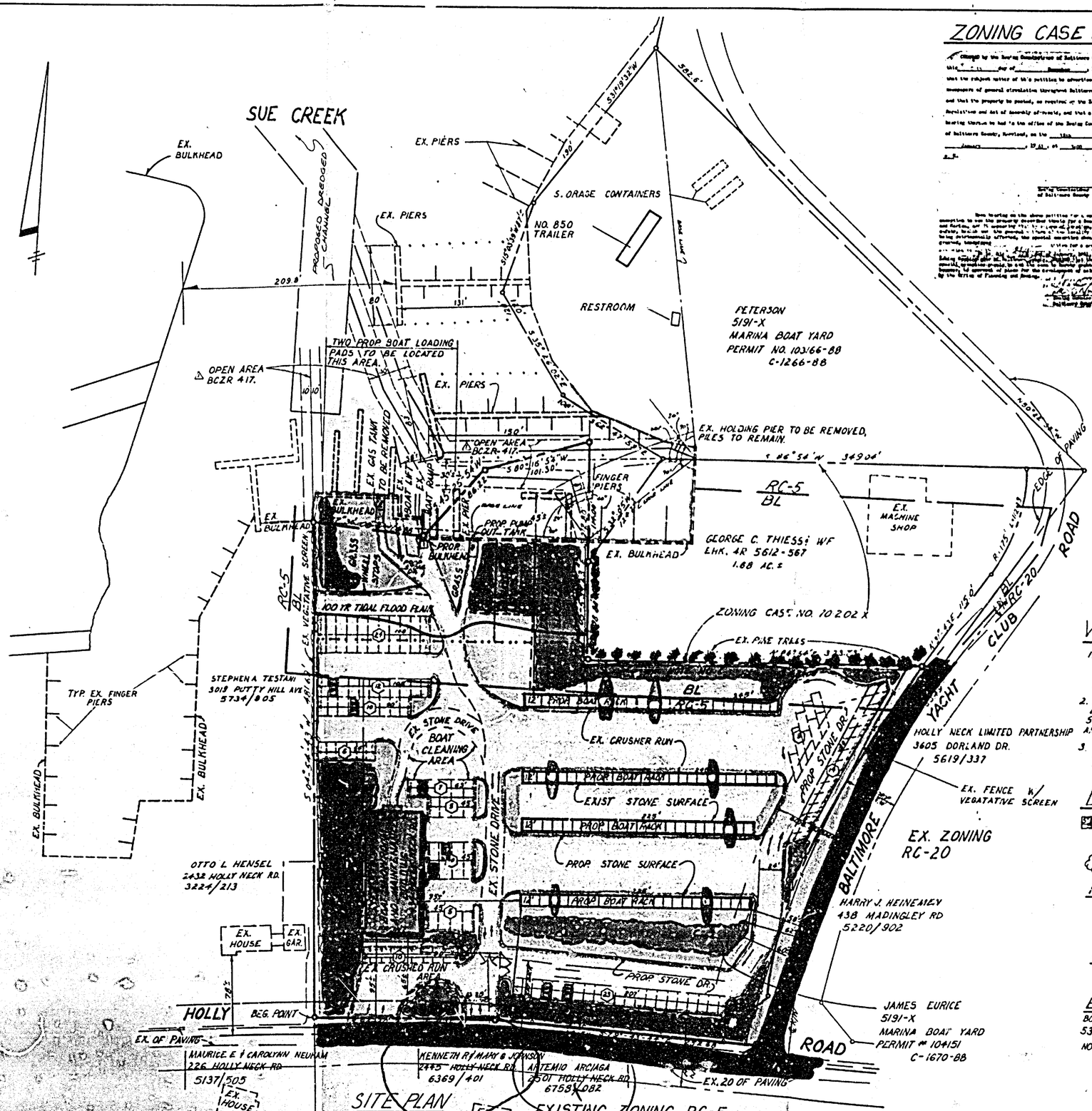
S39°30'00"E 120'

S35°26'05"E 120'

S39°30'00"E 120'

S35°26'05"E 120'

S39°30'00"E 120'



ZONING CASE NO. 5191-XA

Order by the Zoning Commissioner of Baltimore County

this ____ day of ____, 19__

that the subject matter of this petition be advertised in the newspapers of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly of-hereto, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 13th day of January, 19 90 at 9:00 o'clock A.M.

Zoning Commissioner of Baltimore County

Date of Posting 12/28/89

Posted for: Special Hearing

Petitioner: James H. Eurice

Location of property: N/S Baltimore Yacht Club Rd. 440' E/of c/l of Holly Neck Rd.

Location of Signs: Facing Baltimore Yacht Club Rd. approx. 30' from c/l of road

Remarks: Posted by 12/28/89

Number of Signs: 1

NOTES:

1. ALL BOATS SHALL BE STORED ON RACKS (NO PERMANENT BOAT STORAGE IN WATER).
2. ALL LANDSCAPE SCREENING SHALL COMPLY WITH LANDSCAPE MANUAL AND DEPARTMENT OF PLANNING.
3. ALL INGRESS-EGRESS ROADS AND ONE RACK STORAGE AREA ARE TO HAVE CRUSHER-RUN APPLIED , AS WELL AS ROADS LEADING TO BUILDINGS AND BULKHEAD AREA.
4. ALL TRAFFIC AND PARKING AREAS MUST BE TREATED AS STATED IN COMAR 10.18.04.03.B(1)(2) & (b) IN ORDER TO PREVENT PARTICULATE MATTER FROM BECOMING AIRBORNE.
5. NOT LESS THAN ONCE/YEAR, UPON ONSET OF EACH MARINE OPERATIONAL SEASON, CRUSHER-RUN WILL BE ADDED TO OR REPLENISHED ON EXISTING CRUSHER-RUN SURFACES TO INSURE CONTROL OF AIRBORNE PARTICULATE.
6. ALL PARKING AREAS, PARKING AREA ROAD AND ONE RACK STORAGE AREA SHALL BE STONED TO PROVIDE A PERMABLE SURFACE.
7. ALL STONE SHALL BE PEA-GRAVEL.

EX. ZONING
RC-5

SPECIAL HEARING:

SPECIAL HEARING TO AND SPECIAL EXCEPTION IN CASE NO. 5191-X ; TO DETERMINE PARKING REQUIREMENTS
CASE NO. 88-107SPHA

VARIANCE NOTES:

1. SECTION 417.7 TO ALLOW OUT-OF WATER BOAT STORAGE FACILITY 14 FEET FROM PROPERTY LINE IN LIEU OF THE REQUIRED 60 FEET.
2. FROM SECTION 409.2.C.2. AS INTERPRETED BY ZONING POLICY BM-11 FOR A STONE PAVING SURFACE IN LIEU OF THE REQUIRED DURABLE AND DUSTFREE SURFACE.
3. FROM SECTION 409.6.A.4 TO ALLOW PARKING OF 147 SPACES FOR 384 BOATS STORED ON LAND.

LEGEND:

STONE OR CRUSHER RUN SURFACE IN LIEU OF DURABLE AND DUST FREE SURFACE.

AFFORESTATION - EXIST. AND PROPOSED

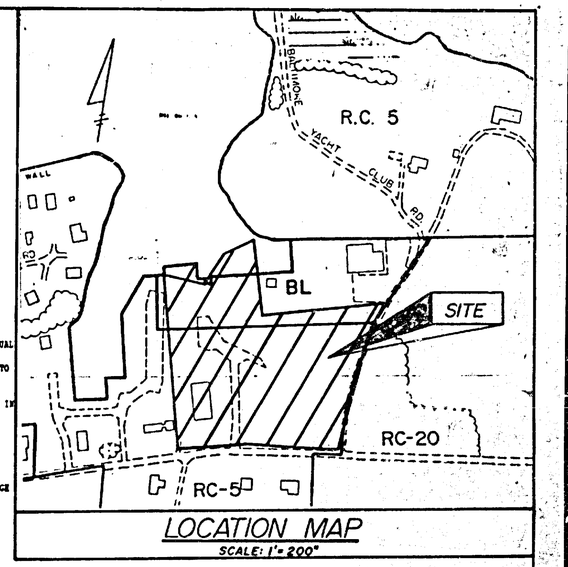
PARKING

PARKING REQUIRED
TO BE DETERMINED BY "SPECIAL HEARING" BY ZONING COMMISSIONER

PARKING PROVIDED
TYPICAL PARKING SPACE 9'x18'
PARKING SPACES PROVIDED = 147 SPACES

EXISTING BUILDING
BOATSHOW ROOM AND MAINTENANCE BUILDING
53' x 117' = 6,201 S.F.±

NOTE: FOR COMPOSITE PLAT INDICATING ZONING AND ENVIRONMENTAL ISSUES AND TOPOGRAPHY SEE SHEET 2 OF 2.



LOCATION MAP
SCALE: 1" = 200'

SITE DATA:

1. OWNER: CHARLES ANDERSON (FORMERLY JAMES H. EURICE)
   2434 HOLLY NECK ROAD
   BALTIMORE YACHT CLUB ROAD
2. (PROPOSED/EX. SITE USE): BOAT STORAGE, PARKING, MARINA, BOAT SALES & MAINTENANCE
3. DEED REF.: 7357/468
4. DISTRICT-15TH
5. ZONING PROPOSED/EX.: SPECIAL EXCEPTION
6. EXISTING PUBLIC WATER IN HOLLY NECK RD.
7. EXISTING SEPTIC SYSTEM
8. AREA OF SITE = 5.087 AC.±

ANDERSON BROTHERS BOAT SALES
FORMERLY
JENKINS NORTH MARINA

William N. Bafitis, P.E
301-391-2336
Baftis & Associates
Civil Engineers / Land Planners / Surveyors
1249 Engleberth Rd. Baltimore, Md. 21221

2434 HOLLY NECK ROAD

PLAT TO ACCOMPANY PETITION FOR "SPECIAL HEARING TO AMEND SPECIAL EXCEPTION AND TO APPROVE PARKING AND VARIANCE

ELECTION DISTRICT 15 CONCILMANIC DISTRICT 5

STATE OF MARYLAND WILLIAM N. BAFITIS No. 11908 REGISTERED PROFESSIONAL ENGINEER

WILLIAM N BAFITIS PE

1

SHEET 1 OF 2

SCALE	AS SHOWN
JOB ORDER NO.	86005
DATE	12-8-89

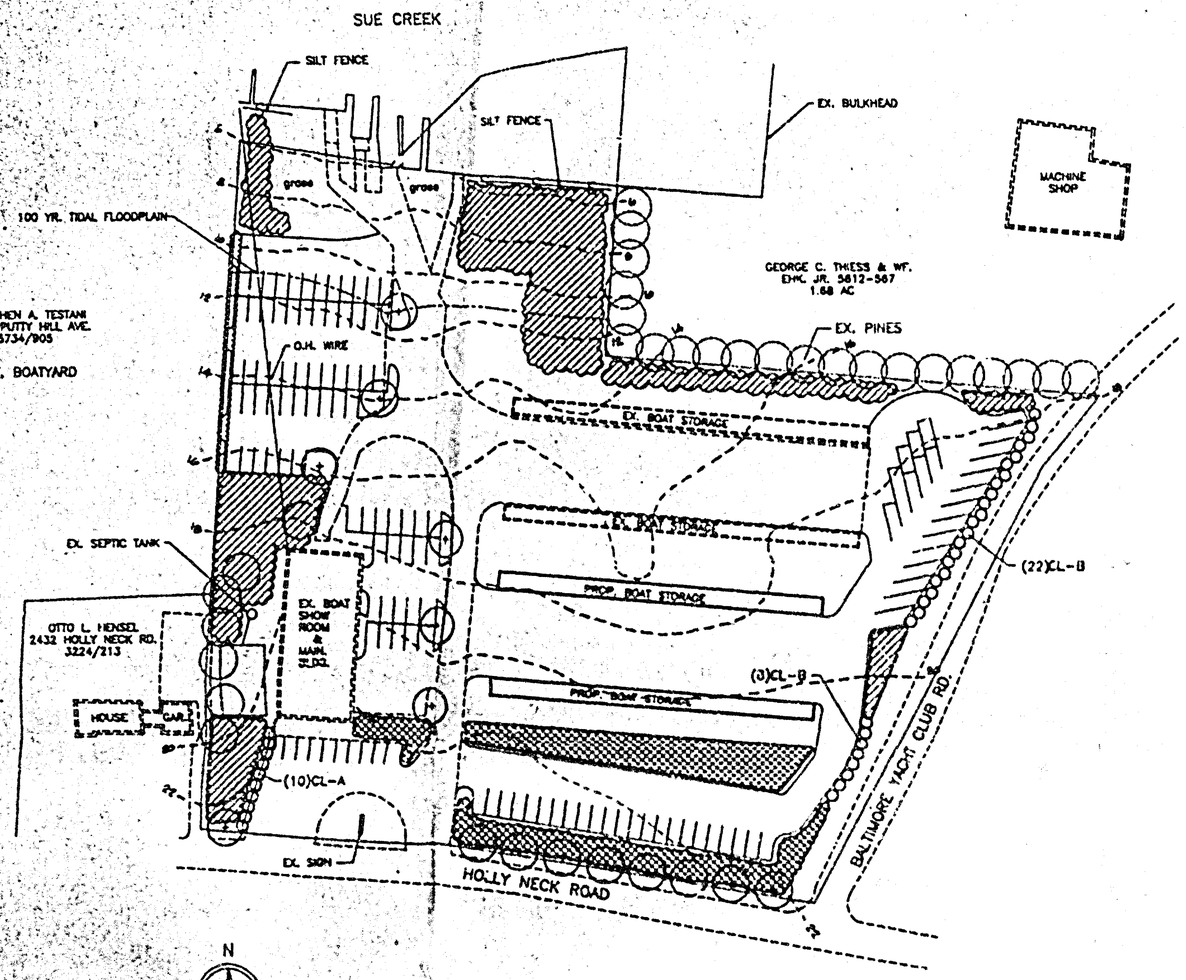
NO	REVISIONS	DATE
1	OPEN AREA BCZR 417	4-17-90

PETITIONER'S EXHIBIT 8

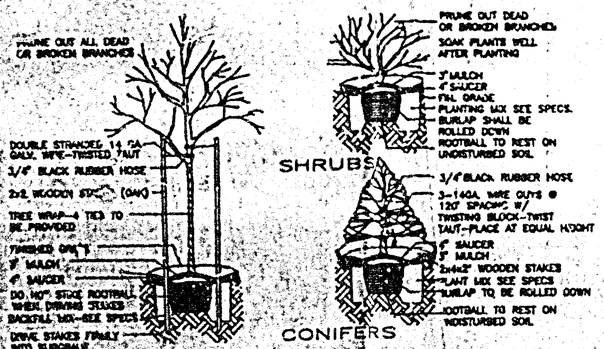
88-107SPHA

MICROFILM

88-107 SPHA Petitioner 10



N



PLANTING DETAILS NOT TO SCALE

LEGEND

- EXISTING VEGETATION
- PROPOSED REFORESTATION
- PROPOSED REFORESTATION (EVERGREEN DOMINANT)

BOX OF PROPOSED PLANT MATERIAL IN THESE AREAS SHALL CONSIST OF THE FOLLOWING EVERGREEN OR SEMI-EVERGREEN SPECIES: RED CEDAR, SWEET BAY MAGNOLIA, INKBERRY, AMERICAN HOLLY, LANDKILL, BAYBERRY, & SWAMP AZALEA

- PROPOSED WILLOW OAK
- PROPOSED LEYLAND CYPRESS

PLANTING TABULATIONS

1. 56' L.F. OF INTERIOR ROAD/20= 28 P.U.
2. 832.69 L.F. OF ADJACENT ROAD/40= 20.82 P.U.
3. 147 PARKING SPACES/12= 12.25 P.U.
4. 387 L.F. OF PARKING ADJACENT TO R.O.W/15= 25.8 P.U.
5. 85 L.F. OF ADJACENT RESIDENTIAL/15= 5.67 P.U.

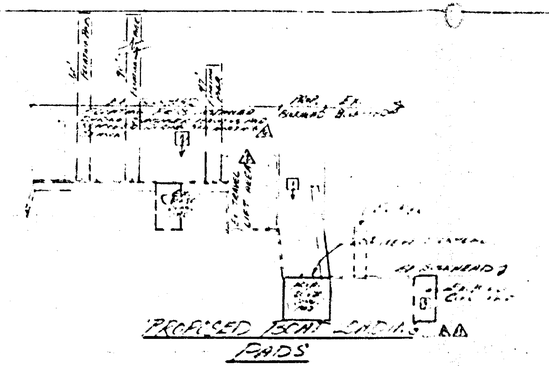
TOTAL PLANTING UNITS REQUIRED: 92.54 OR 93 P.U.

CREDIT FOR PROPOSED REFORESTATION: 58 P.U.
PLANTING UNITS PROVIDED: 35
TOTAL PLANTING UNITS PROVIDED: 93

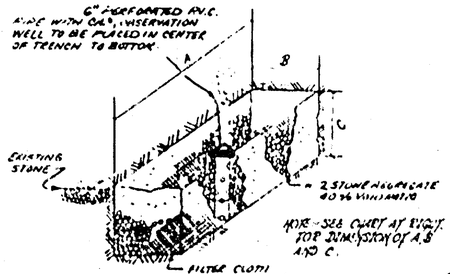


Reforestation Schedule

QTY	BOTANICAL NAME	DESCRIPTION	SIZE	SPACING	TYPE	REMARKS
14	Deciduous trees	Various Species		10'-20' O.C.		B&B
30	Deciduous trees	Various Species			15 gal.	B&B
14	Evergreen trees	Red Cedar	5'-6'			B&B
30	Evergreen trees	Red Cedar		10'-20' O.C.		B&B
5	Deciduous shrubs	Various Species	2-3 GAL.			B&B
15	Deciduous shrubs	Various Species		10'-20' O.C.		B&B
25	Evergreen shrubs	Various Species	2-3 GAL.			B&B
75	Evergreen shrubs	Various Species			15 gal.	B&B
15	Deciduous shrubs	Various Species	2-3 GAL.			B&B
30	Deciduous shrubs	Various Species		10'-20' O.C.		B&B
15	Deciduous shrubs	Various Species			15 gal.	B&B
30	Deciduous shrubs	Various Species		10'-20' O.C.		B&B
5	Deciduous shrubs	Various Species			15 gal.	B&B
10



PROPOSED ESCAPE GRADE
FINDS
SCALE: 1" = 50'



INFILTRATION TRENCH DETAIL
NO SCALE

IMPERVIOUS SURFACE:

	EXISTING	PROPOSED
EX. BUILDING	6221 SF	
PROPOSED BLDG.		6,678 SF
EX. SHED	576 SF	
EX. GAZEBO	56 SF	
EX. GAZEBO & PORCH	448 SF	400 SF
EX. CONC. PADS	32 SF	
EX. CONC. PADS	768 SF	
STONE	20,000 SF @ 0.65 AC.	20,000 SF @ 0.65 AC.

0.756 / 5.011 = 15 % < 20% MAXIMUM ALLOWABLE

AFFORESTATION CALCULATIONS:

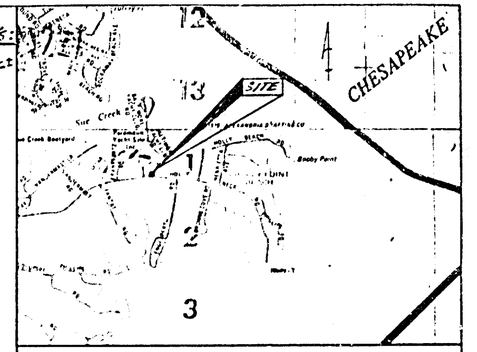
REQUIRED: 15% x 5.011 Ac. = 0.756 Ac. (GROSS AREA)

PROVIDED:

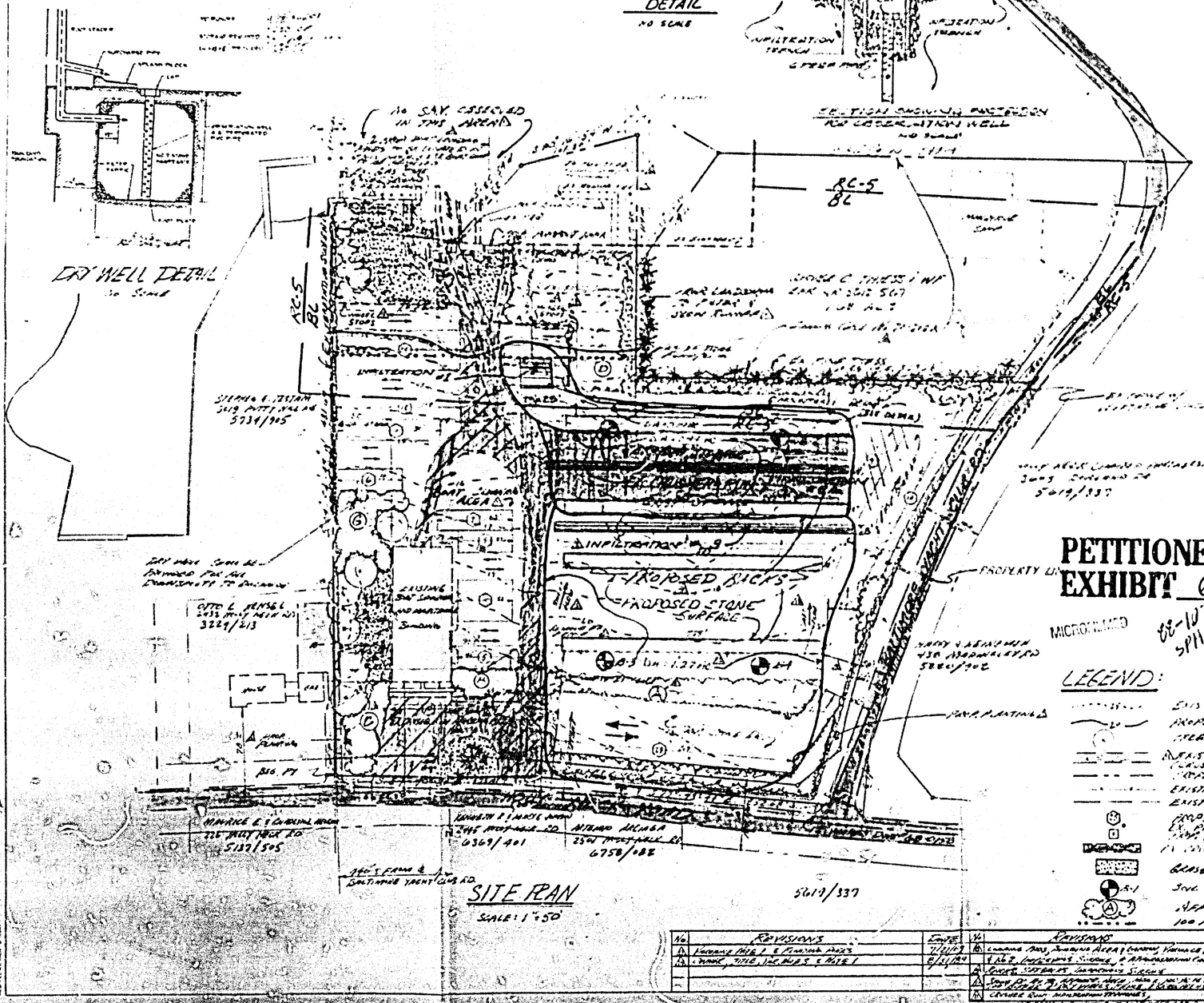
AREA (A)	=	5,175 SF
(B)	=	1575 SF
(C)	=	2,000 SF
(D)	=	11,690 SF
(E)	=	6,100 SF
(F)	=	5,125 SF
(G)	=	2,310 SF
TOTAL	=	33,965 SF = 0.757 Ac. ±

INFILTRATION TRENCH DIMENSIONS

DIMENSION	TRENCH #1	TRENCH #2	TRENCH #3
A	26.0'	26.0'	26.0'
B	26.0'	7.0'	30'
C	3.0	8.5'	7.0'
AREA	A 676 SF B 676 SF	A 182 SF B 1855	A 1001.5 SF B 1229 SF



LOCATION MAP
SCALE: 1" = 2000'



MOUNTABLE BERM DETAIL
NO SCALE

SPECIAL HEARING:

TO AMEND SPECIAL EXCEPTION CASE NO. 87-191-X, TO APPROVE PARKING REQUIREMENTS

VARIANCE NOTES:

1. SECTION 409.8.A.1 TO PERMIT 147 PARKING SPACES IN LIEU OF THE REQUIRED 174 SPACES.
2. SECTION 409.8.C.4 AS INTERPRETED TO PERMIT A 10' WIDE PARKING SETBACK IN LIEU OF THE REQUIRED 25' SETBACK.
3. TO PERMIT 30 BOAT SLIPS IN LIEU OF THE REQUIRED 147 SPACES AND 294 BOATS STORED ON LAND.

PETITIONER'S EXHIBIT 6

MICROFILMED 88-107-SPHA

NOTES:

1. ALL SIGNS SHALL BE SUBJECT TO A PERMIT. (AS REQUIRED BY THE BALTIMORE COUNTY SIGN REGULATIONS)
2. ALL CONCRETE SIDEWALKS SHALL COMPLY WITH HANDICAPPED REGULATIONS AND SHALL BE MAINTAINED.
3. ALL STRUCTURES BEYOND 1000 FEET FROM THE MEAN HIGH WATER LINE OF TIDAL SIDE AREA SHALL BE CONSTRUCTED ON SITE.
4. ALL INGRESS-EGRESS (AISLES AND) ONE RACK STORAGE AREA ARE TO HAVE CRUSHER RUN APPLIED AS WELL AS ASPHALT OR CONC. TO BUILDINGS AND OVERHEAD AREA.
5. ALL TRAFFIC IN A MARINA AREAS MUST BE DIRECTED BY SIGNAGE IN CONFORMANCE WITH SECTIONS 307.1(1)(a) & (b) OF THE 1987 EDITION OF THE INTERNATIONAL BUILDING CODE.
6. NOT LESS THAN ONE (1) YEAR FROM THE DATE OF FINAL INSPECTION BY THE SEDIMENT CONTROL INSPECTOR, THE AREA SHALL BE SEEDED AND MULCHED OR OTHERWISE STABILIZED TO MEET CONTROL OF SEDIMENT ORDINANCE REQUIREMENTS.
7. ALL EMPLOYEE, PATRON PARKING AREA AND ONE RACK STORAGE AREA SHALL BE SURFACED TO PROVIDE A PLANNABLE SURFACE.
8. ALL SIGNS SHALL BE FLAT, CANVAS, OR PLASTIC.

LEGEND:

- EXISTING CONTOUR
- PROPOSED CONTOUR
- AREA (CONTOUR) (A)
- EXISTING IMPROVEMENTS (GARAGE, BUILDING, STONE OR PAVING)
- PROPERTY LINE
- EXISTING 8' CHAIN LINK FENCE
- EXISTING WATER LINE
- GOOD PARKING
- EX. PARKING (APPROX. LOCATION)
- LOAD, UNLOAD AND PARKING FOR BOAT TRAILERS
- EX. CONCRETE PAD TO BE REPLACED WITH STONE
- BRUSH BARRIER
- SOIL BORING
- RECREATIONAL AREA
- 100 FOOT BUFFER LINE

PARKING REQUIREMENTS:

REQUIRED:

PROPOSED: 9'x18' TYP. SPACE = 147 SPACES

TOILET FACILITIES:

	MENS TOILET	MENS LAV.	WOMENS TOILET	WOMENS LAV.
EXISTING	1	1	1	1

GENERAL NOTES:

1. OWNER: CHARLES ANDERSON (FORMERLY JENKINS NORTH MARINA)
   2434 HOLLY NECK ROAD
2. DISTRICT - 15th, ZONED: SPECIAL EXCEPTION CASE NO. 87-191-X
3. DEED REF: 7357/468 RC-5 & BL
   5.0087 AC.±
4. EXISTING PUBLIC WATER IN HOLLY NECK RD.
   EXISTING SEPTIC SYSTEM

ANDERSON BROTHERS BOAT SALES
FORMERLY
JENKINS NORTH MARINA

William N. Baltis, P.E.
301-391-2336
Baltis & Associates
Civil Engineers / Land Planners / Surveyors
1249 Engleberth Rd. Baltimore, Md. 21221

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING TO AMEND SPECIAL EXCEPTION AND TO APPROVE PARKING AND VARIANCE

88-107-SPHA Petitioner's 7

SCALE: AS SHOWN

ORDER NO. J-005

DATE: 4-20-87

SHEET 2 OF 2

NO	REVISIONS	DATE
1	ADDED LANDSCAPING, E.S. DETAIL, SAV AFFIDAVIT	7/14/87
2	REVISED PARKING COUNT, S.W.M. AREA, LIMIT, CLEARING AREA, ADDED BOAT LAUNCH RAMP, AND UPDATE EXISTING USES & IMPROVEMENTS FROM SURVEY DATED MARCH 1986	7-20-87
3	5/7/88	10/27/88
4	ADD BOAT LAUNCH RAMP PLAN, IMPERVIOUS SURFACE CALC., AFFORESTATION CALCS., HOLLY NECK ROAD AND ADDITIONAL NOTES, DETAILED AS-BUILTED DRAWINGS AND TABULATIONS & P.D.M. COMMENTS	12/28/88

NO	REVISIONS	DATE
1	CHANGE PROPOSED BUILDING AREA & PARKING AREA	5-21-87
2	ADDED INFILTRATION TRENCHES TO S.W.M. & W.M.	6/18/87
3	REVISED S.W.M. CALCULATIONS AS PER SOIL BORING ANALYSIS	12/7/88
4	REVISED TRENCH LOCATION & CALCS	1-19-89
5	REVISED ACCESS AISLE, DELETED 4 PARKING SPACES	2-14-89
6	ADD 4 PARKING SPACES, CHANGE PARKING AREA & LIMIT OF DISTURBANCE	3-9-89

NO	REVISIONS	DATE
1	CHANGE PROPOSED BUILDING AREA & PARKING AREA	5-21-87
2	8 SLIP CANTILEVER SHED & ADMINISTRATION CONC.	6/24/87
3	CHANGE SETBACK ON PARKING SPACE	4-17-87
4	STONE FOR 25 PARKING SPACES & 1 HANDICAP SPACE	4-29-89
5	CHANGE SOME NON-TIDAL WETLANDS	5-23-89

MOUNTABLE BERM, D.N. NOTE 6 & 7, CLIFF RAKER, OBS. PINE. 6-1-89

NOTE: ANY PROPOSED OR FUTURE WORK SHALL CONFORM TO BALTIMORE COUNTY, STATE OF MARYLAND AND FEDERAL REGULATIONS.

NOTICE: This plan has been prepared in accordance with section 417.3 Baltimore County zoning regulations stated below:

417.3: Where proposed construction will conflict with existing facilities, it will be the duty of the office of planning and zoning to specify the limits of construction to conform as closely as possible to the rules as set forth herein so as to cause the least interference with existing and/or possible future construction. Notice of the proposed construction shall be given by the department of permits and licenses to adjoining property owners affected.(bill no. 6A,1963)

The Undersigned have Reviewed this Plan, and are in agreement on the Contents.

Dennis L Peterson — 8/6/90
Owner: Dennis Peterson No. 850 Baltimore Yacht Club Road — Date

8-5-90
Owner: George Thiess No. 900 Baltimore Yacht Club Road — Date

8-5-90
Owner: Charles Anderson No. 2438 Holly Neck Road — Date

VICINITY MAP SCALE 1" = 2,000'

HOLLY NECK RD.

CEDAR GROVE RD.

SUE CREEK

MIDDLE RIVER

BALTIMORE YACHT CLUB RD.

TO HOLLY NECK RD.

Existing Fishing Pier

Ex. Bulkhead

Retail Building

S 64°54'43 W 481.60'

EX TRAVEL LIFT TO BE REMOVED

FUTURE FLOATING PIER

EX BOAT RAMP TO BE REMOVED

2-FUTURE FLOATING PILES

Existing Fishing Pier

Marina to Open Area No Dredging

Existing Bulkhead

Property Line

Screenhouse

Ex Bulkhead

Ex Pier

Ex Boat Ramp

Ex Travel Lift

Ex Bulkhead

Ex Pier

Ex Bulkhead

Ex Pier

Ex Bulkhead

Ex Pier

SUE CREEK

BALTIMORE YACHT CLUB ROAD

HOLLY NECK ROAD

PROPOSED BOAT YARD

PROPOSED BOAT YARD

EXISTING HENSEL'S MARINA

CHARLES JANUSKA

CHARLES JANUSKA

HERSCHEL JOHNSON

CLYDE L. HENSEL

BULKHEAD

BULKHEAD

① BALTIMORE COUNTY, MARYLAND

② TO BE DEDICATED TO BALTIMORE COUNTY, MARYLAND

NOTE
THIS PLAT PLOTTED FROM DEED AS RECORDED IN THE LAST RECORDS OF BALTIMORE COUNTY, MARYLAND

MICROFILMED

OFFICE OF PLANNING & ZONING
APPROVED AS TO SITUATIONS IN
The Zoning Commissioner Order
NO 87-41 DATED 11/4/86
The Appeal Period Is Waived.
Public Hearing Advertising Requirements
As Specified In The Baltimore County Zoning
Code.
Date 11/4/86

SUE CREEK

SUE ISLAND

BALTIMORE YACHT CLUB

CEDAR CREEK

HOLLY NECK ROAD

--LOCATION PLAN--

SECTION B-B

BULKHEAD

SECTION A-A

SIDE VIEW

WHARF

15-C

PETITIONER'S EXHIBIT 3
88-107SPHA

--SUE CREEK MARINA, INC.--

HOLLY NECK ROAD BALTIMORE CO., MARYLAND

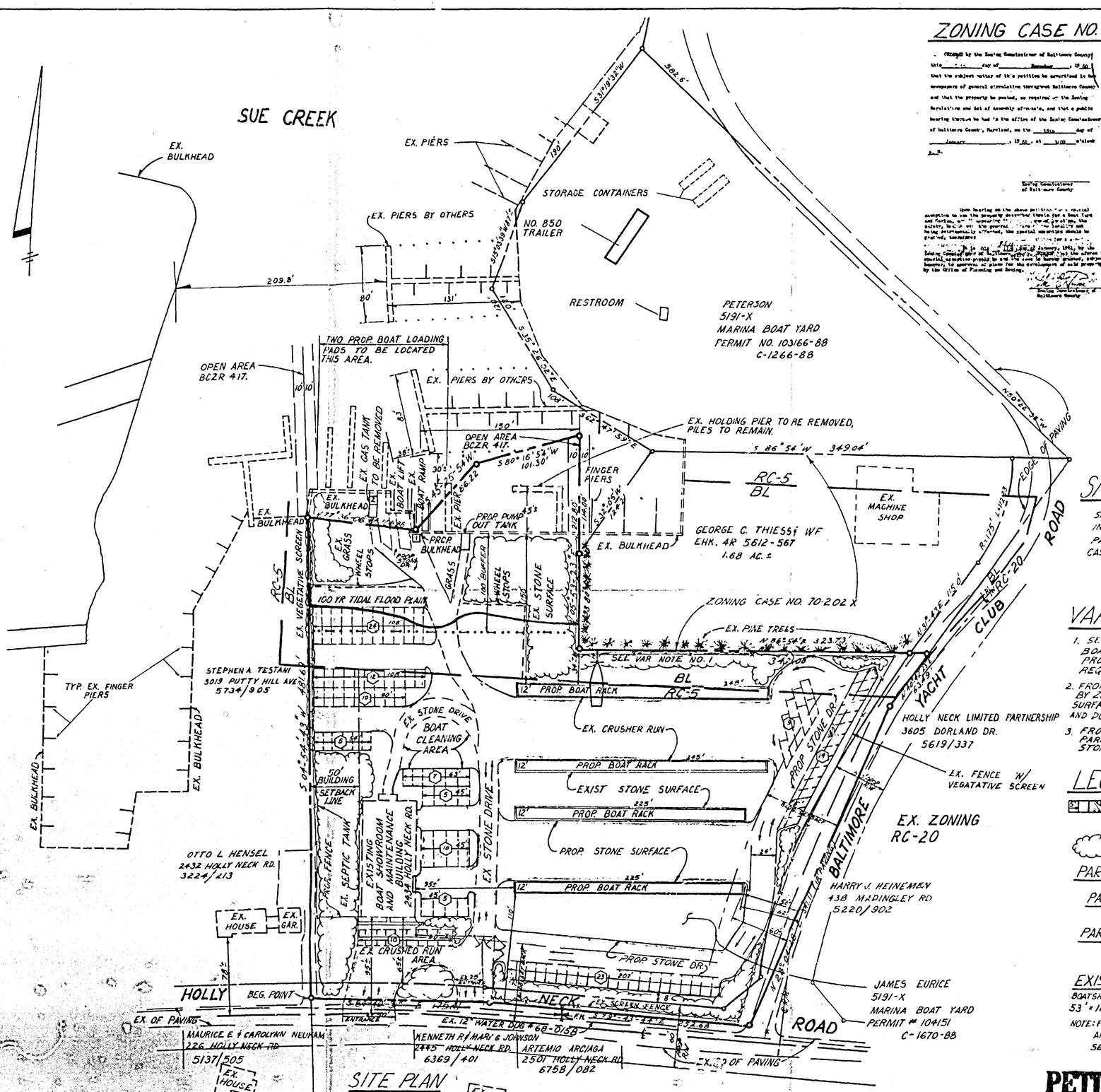
SUE CREEK

BALTIMORE CO., MD. ELECTION DISTRICT NO. 15 PHONE 687-8700

CHARLES JANUSKA & WILLIAM CALDWELL

BALTO. YACHT CLUB ROAD BALTIMORE 20, MARYLAND

88-107 SPHA Petitioner's #1 - OVER



ZONING CASE NO. 5191-XA

ORDERED by the Zoning Commissioner of Baltimore County this _____ day of _____, 19 60 that the subject matter of this petition be advertised in two newspapers of general circulation throughout Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly aforesaid, and that a public hearing thereon be had in the office of the Zoning Commissioner of Baltimore County, Maryland, on the 18th day of January, 19 61, at 9:30 o'clock A.M.

Zoning Commissioner of Baltimore County

Upon hearing on the above petition for a special exception to use the property described therein for a boat yard and further, upon appearing that ... safety, health and general welfare ... being detrimentally affected, the special exception should be granted, ... for a period of ... 19 61 to the ... Zoning Commissioner of Baltimore County, ... approval of plans for the development of said property by the Office of Planning and Zoning.

Zoning Commissioner of Baltimore County

NOTES:

1. ALL BOATS SHALL BE STORED ON RACKS (NO PERMANENT BOAT STORAGE IN WATER).
2. ALL LANDSCAPE SCREENING SHALL COMPLY WITH LANDSCAPE MANUAL AND DEPARTMENT OF PLANNING.
3. ALL INGRESS-EGRESS ROADS AND ONE RACK STORAGE AREA ARE TO HAVE CRUSHER-RUN APPLIED , AS WELL AS ROADS LEADING TO BUILDINGS AND BULKHEAD AREA.
4. ALL TRAFFIC AND PARKING AREAS MUST BE TREATED AS STATED IN COMAR 10.18.06.03.D(1)(2) & (b) IN ORDER TO PREVENT PARTICULATE MATTER FROM BECOMING AIRBORNE.
5. NOT LESS THAN ONCE/YEAR, UPON CLOSE OF THE MARINE OPERATIONAL SEASON, CRUSHER-RUN WILL BE ADDED TO OR REPLENISHED ON EXISTING CRUSHER-RUN SURFACES TO INSURE CONTROL OF AIRBORNE PARTICULATE.
6. ALL PARKING AREAS, PARKING AREA ROAD AND ONE RACK STORAGE AREA SHALL BE STONED TO PROVIDE A PERMABLE SURFACE.
7. ALL STONE SHALL BE PEA-GRAVEL.

EX. ZONING
RC-5

SPECIAL HEARING:

SPECIAL HEARING TO AND SPECIAL EXCEPTION IN CASE NO. 5191-X ; TO DETERMINE PARKING REQUIREMENTS
CASE NO. 88-107SPHA

VARIANCE NOTES:

1. SECTION 417.7 TO ALLOW OUT-OF WATER BOAT STORAGE FACILITY 14 FEET FROM PROPERTY LINE IN LIEU OF THE REQUIRED 60 FEET.
2. FROM SECTION 409.2.C.2. AS INTERPRETED BY ZONING POLICY BM-II FOR A STONE PAVING SURFACE IN LIEU OF THE REQUIRED DURABLE AND DUSTFREE SURFACE.
3. FROM SECTION 409.6.A.4 TO ALLOW PARKING OF 147 SPACES FOR 384 BOATS STORED ON LAND.

LEGEND:

STONE = STONE OR CRUSHER RUN SURFACE IN LIEU OF DURABLE AND DUST FREE SURFACE.

AFFORESTATION - EXIST. AND PROPOSED

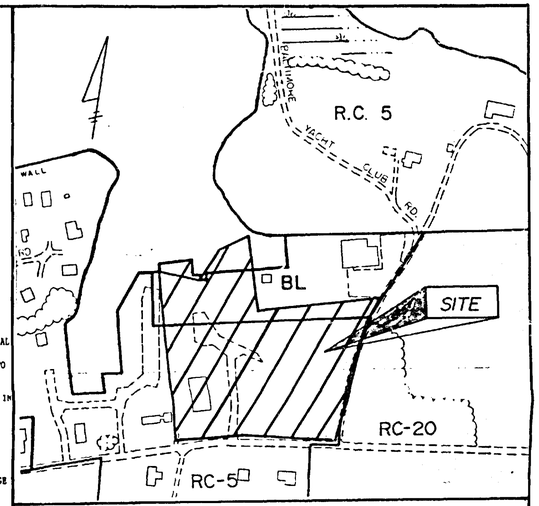
PARKING

PARKING REQUIRED
TO BE DETERMINED IN "SPECIAL HEARING" BY ZONING COMMISSIONER

PARKING PROVIDED
TYPICAL PARKING SPACE 9'x18'
PARKING SPACES PROVIDED = 147 SPACES

EXISTING BUILDING
BOATSHOW ROOM AND MAINTENANCE BUILDING
53'x117' = 6,201 S.F.±

NOTE: FOR COMPOSITE PLAT INDICATING ZONING AND ENVIRONMENTAL ISSUES AND TOPOGRAPHY SEE SHEET 2 OF 2.



LOCATION MAP
SCALE: 1"= 200'

SITE DATA:

1. OWNER: CHARLES ANDERSON (FORMERLY JAMES H. EURICE) 2434 HOLLY NECK ROAD BALTIMORE YACHT CLUB ROAD
2. (PROPOSED / EX. SITE USE): BOAT STORAGE, PARKING, MARINA, BOAT SALES & MAINTENANCE
3. DEED REF.: 7357/468 5.087 AC.±
4. DISTRICT-15TH
5. ZONING PROPOSED / EX.: SPECIAL EXCEPTION
6. EXISTING PUBLIC WATER IN HOLLY NECK RD.
7. EXISTING SEPTIC SYSTEM
8. AREA OF SITE = 5.087 AC.±

88-107-SPHA

ANDERSON BROTHERS BOAT SALES
FORMERLY
JENKINS NORTH MARINA

William N. Baftis, P.E
301-391-2336
Baftis & Associates
Civil Engineers / Land Planners / Surveyors
1249 Engleberth Rd. Baltimore, Md. 21221

2434 HOLLY NECK ROAD

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING TO AMEND SPECIAL EXCEPTION AND TO APPROVE PARKING AND VARIANCE

ELECTION DISTRICT 15 COUNCILMANIC DISTRICT 5

WILLIAM N BAFITIS P.E.

1

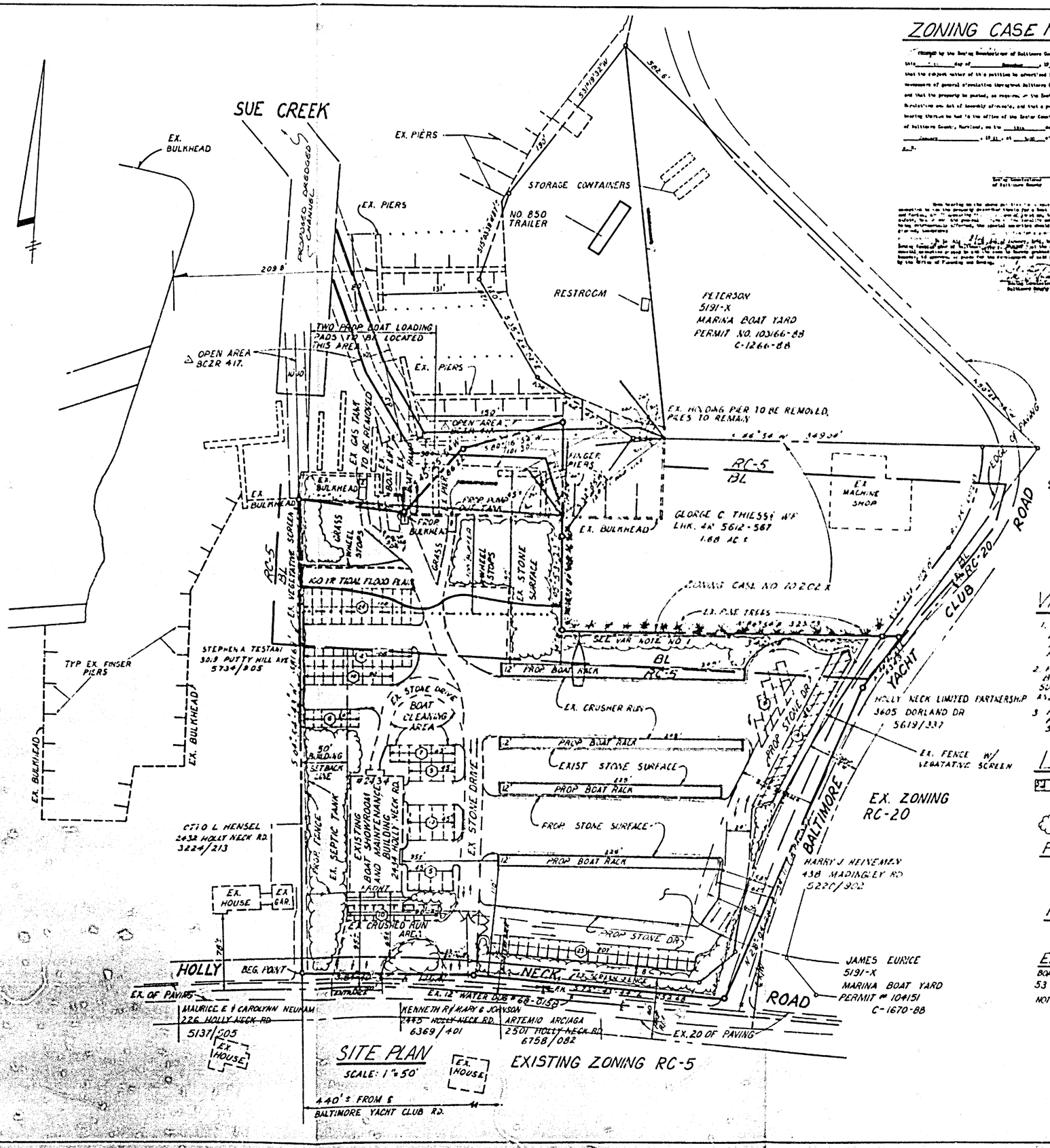
SHEET 1 OF 2

SCALE	AS SHOWN
JOB ORDER NO.	86005
DATE	12-8-89

NO	REVISIONS	DATE

PETITIONER'S EXHIBIT 5
88-107SPHA

MICROFILMED



SITE PLAN
SCALE: 1"=50'

EXISTING ZONING RC-5

ZONING CASE NO. 5191-XA

Ordered by the Zoning Commissioner of Baltimore County this ____ day of _____, Amended _____, 19 90, that the subject matter of this petition be advertised as required by the zoning regulations of Baltimore County and that the property be posted, as required by the Zoning Regulations and Act of Assembly cited by, and that a public hearing thereon be held by the office of the Zoning Commissioner of Baltimore County, Maryland, on the 18th day of January, 19 91, at 9:00 o'clock A.M.

Zoning Commissioner of Baltimore County

Date of Posting 1/4/91

Posted for: Special Hearing

Petitioner: James H. Eurice

Location of property: S/S Holly Neck Rd. 2434 Holly Neck Rd.

Location of Signs: Facing Holly Neck Rd. approx. 20' from corner of property, Holly Neck Rd. and Baltimore Yacht Club Rd.

Remarks: Posted by [illegible] on 1/4/91

Number of Signs: 1

NOTES:

1. ALL BOATS SHALL BE STORED ON RACKS OR PERMANENT BOAT STORAGE OR WATER).
2. ALL LANDSCAPE SCREENING SHALL COMPLY WITH LANDSCAPE MANUAL AND DEPARTMENT OF PLANNING.
3. ALL INGRESS-EGRESS ROADS AND ONE RACK STORAGE AREA ARE TO HAVE CRUSHER-RUN APPLIED , AS WELL AS ROADS LEADING TO BUILDINGS AND BULKHEAD AREA.
4. ALL TRAFFIC AND PARKING AREAS MUST BE TREATED AS STATED IN COMAR 10.18.06.03.B(1)(2) & (3) IN ORDER TO PREVENT PARTICULATE MATTER FROM BECOMING AIRBORNE.
5. NOT LESS THAN ONCE/YEAR, UPON ONSET OF EACH MARINE OPERATIONAL SEASON, CRUSHER-RUN WILL BE ADDED TO OR REPLENISHED ON EXISTING CRUSHER-RUN SURFACES TO INSURE CONTROL OF AIRBORNE PARTICULATE.
6. ALL PARKING AREAS, PARKING AREA ROAD AND ONE RACK STORAGE AREA SHALL BE STONED TO PROVIDE A PERMEABLE SURFACE.
7. ALL STONE SHALL BE PEA-GRAVEL.

EX. ZONING
RC-5

SPECIAL HEARING:

SPECIAL HEARING TO AND SPECIAL EXCEPTION IN "CASE NO 5191-X ; TO DETERMINE PARKING REQUIREMENTS
CASE NO 88-107-SPHA

VARIANCE NOTES:

1. SECTION 417.7 TO ALLOW OUT-OF WATER BOAT STORAGE FACILITY 14 FEET FROM PROPERTY LINE IN LIEU OF THE REQUIRED 40 FEET
2. FROM SECTION 409.2.C.2. AS INTERPRETED BY ZONING POLICY MANUAL FOR A STONE PAVING SURFACE IN LIEU OF THE REQUIRED DURABLE AND DUSTFREE SURFACE
3. FROM SECTION 409.6.A.4 TO ALLOW PARKING OF 147 SPACES FOR 384 BOATS STORED ON LAND.

LEGEND:

- STONE OR CRUSHER RUN SURFACE IN LIEU OF DURABLE AND DUST FREE SURFACE
- AFFORESTATION - EXIST. AND PROPOSED

PARKING

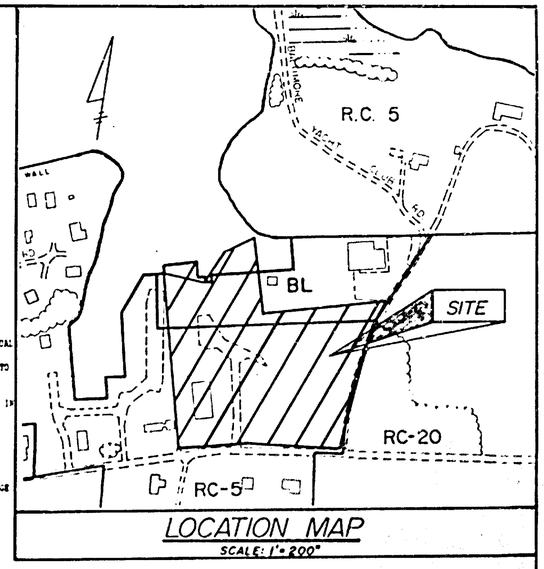
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2434 HOLLY NECK ROAD

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING TO AMEND SPECIAL EXCEPTION AND TO APPROVE PARKING AND VARIANCE

ELECTION DISTRICT 15 CONGRESSIONAL DISTRICT 5

STATE OF MARYLAND WILLIAM N. BAFITIS ENGINEER 11706

WILLIAM N BAFITIS PE

SHEET 1 OF 2

SCALE	AS SHOWN
JOB ORDER NO.	86005
DATE	12-8-89

NO	REVISIONS	DATE
1	OPEN AREA BCZR 417	4-11-90