

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Gordon F. Cumming, Jr. Revocable
Trust dated October 2, 2011

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2025-0037-V

COUNCILMANIC DISTRICT: 5

HEARING DATE: May 1, 2025

PREPARED BY: Joan A. Jenkins 
Planner III

REQUEST

The applicant is requesting a variance to allow a boatlift piling with less setbacks than required on property located at 247 Cypress Creek Road in Severna Park.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 1.46 acres of land, more or less, and is located with approximately 143 feet of frontage on the southwest side of Leslie Road, at the southwest juncture of Truxton Road. The property is identified as Lot 3BR of Parcel 452, in Grid 2 on Tax Map 32E in the Jenkins-Cumming Property subdivision. The property is zoned R5-Residential District. This lot is platted to Little Burley Creek, is within the Chesapeake Bay Critical Area designated as LDA - Limited Development Area, and is mapped within a buffer modification area (BMA). The site is developed with a dwelling, a shed, a driveway, and the subject pier and associated pilings. The property is served by public water and sewer.

APPLICANTS' PROPOSAL

The applicant proposes to relocate three pilings (2 for a boat lift and one on the pier) and replace a piling on the pier, all on the east side of the pier, to create a new boat lift slip in the location of the existing slip.

REQUESTED VARIANCES

§ 18-2-404 (b) of the Code requires a pier or mooring piling be set back a minimum of fifteen feet from a lot line extended. The proposed location of one boat lift piling will be 8 feet from the eastern property line extended, requiring a variance of 7 feet to the 15-foot required setback. The other three pilings will meet the required setback and do not require a variance.

FINDINGS

This Office finds that the subject property has adequate shoreline frontage for a pier with a

boatlift on each side, however, the property line extensions are drawn to a point of cove narrowing the buildable water area as the lines converge at the point of cove. The pier on the subject property was created via a joint pier agreement and subsequently improved with another joint pier agreement recorded under Liber 5414 Folio 2493. At the time of the improvement the owners were Robert P. Heiman and Barbara Luz-Heiman (Lot 3B) and Gordon and Karen Cumming (Lot 3A). The two properties are now owned by trusts, both with the name Gordan Cumming. These properties share the approximate 113 total feet of shoreline. The applicant enjoys the use of the eastern side of the pier. A new pier construction agreement will be required for the proposed improvements during the permitting process. In this case, the proposed pilings are on the east side designated for 247 Cypress Creek Road. The west side of the pier is designated for 667 Ellerslie and currently has a boat lift.

A review of the County aerial photo from 2025 shows piers are common along this shoreline. Many, if not most, of the piers have multiple slips with or without a boat lift.

The applicant's letter indicates that the relocated pilings will provide a place for a second boat and suggest that the configuration will have less impact on the adjacent property owners to the east.

This property was the subject of complementary variance cases 1991-0262-V and 1991-0263-V which subsequently were heard at the Board of Appeals under cases BA 112-91 and BA 113-91. The Board of Appeals granted a piling on the west side of the joint use pier with less setbacks than required. The property was also the subject of variance case 2011-0042-V which denied a use variance to have two principal dwellings on one lot. Case 2016-0200-V granted a variance to allow a dwelling and associated facilities with less setbacks than required and with disturbance to slopes of 15% or greater.

The **Anne Arundel County Department of Health** commented that the property is served by public water and sewer and they have no objection to the request.

The **Development Division (Critical Area Team)** commented that the property line extensions have been reviewed under building permit B02429361 and are determined to be correctly drawn using the point-of-cove method. The subject pier was previously approved under a joint pier agreement. A newly recorded joint pier agreement between the property owners is required. The critical area section of Planning and Zoning has no objection to the requested variance.

For the granting of a zoning variance, a determination must be made as to whether because of certain unique physical conditions peculiar to and inherent in the particular lot or because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot. In this case, the lot has been developed with a joint use pier. It is reasonable for each of the owners of a joint use pier to have the same access and the Office of Planning and Zoning traditionally supports joint use piers as a way of reducing the environmental impact of waterfront construction while at the same time allowing property owners to maximize their use and enjoyment of the water.

Approval of the variances would not alter the essential character of the neighborhood nor impair the use of the neighboring properties. The proposed boat lift piling requiring the variance will be three feet further from the property line extension than the outwardmost mooring piling and will be closer to the shoreline. The adjacent property to the east is already developed with a pier and boat lift pilings. The variances would not be detrimental to the public welfare.

The requested variance for the piling creates a typical slip area for a boat lift and is considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in Section 18-16-305 of the Anne Arundel County Code under which a variance may be granted, this Office recommends **approval** of a variance of 7 feet to the 15-foot required setback to allow a boat lift piling on the east side of the joint use pier located 8 feet from the property line extended, as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



656 Creek Rd
Severna Park, MD 21146
(LIST MANN)

247 Cypress Creek Rd
Severna Park, MD 21146
(CUMMING)

665 Ellerslie Rd
Severna Park, MD 21146
(CUMMING)

673 Ellerslie Rd
Severna Park, MD 21146
(CUMMING)

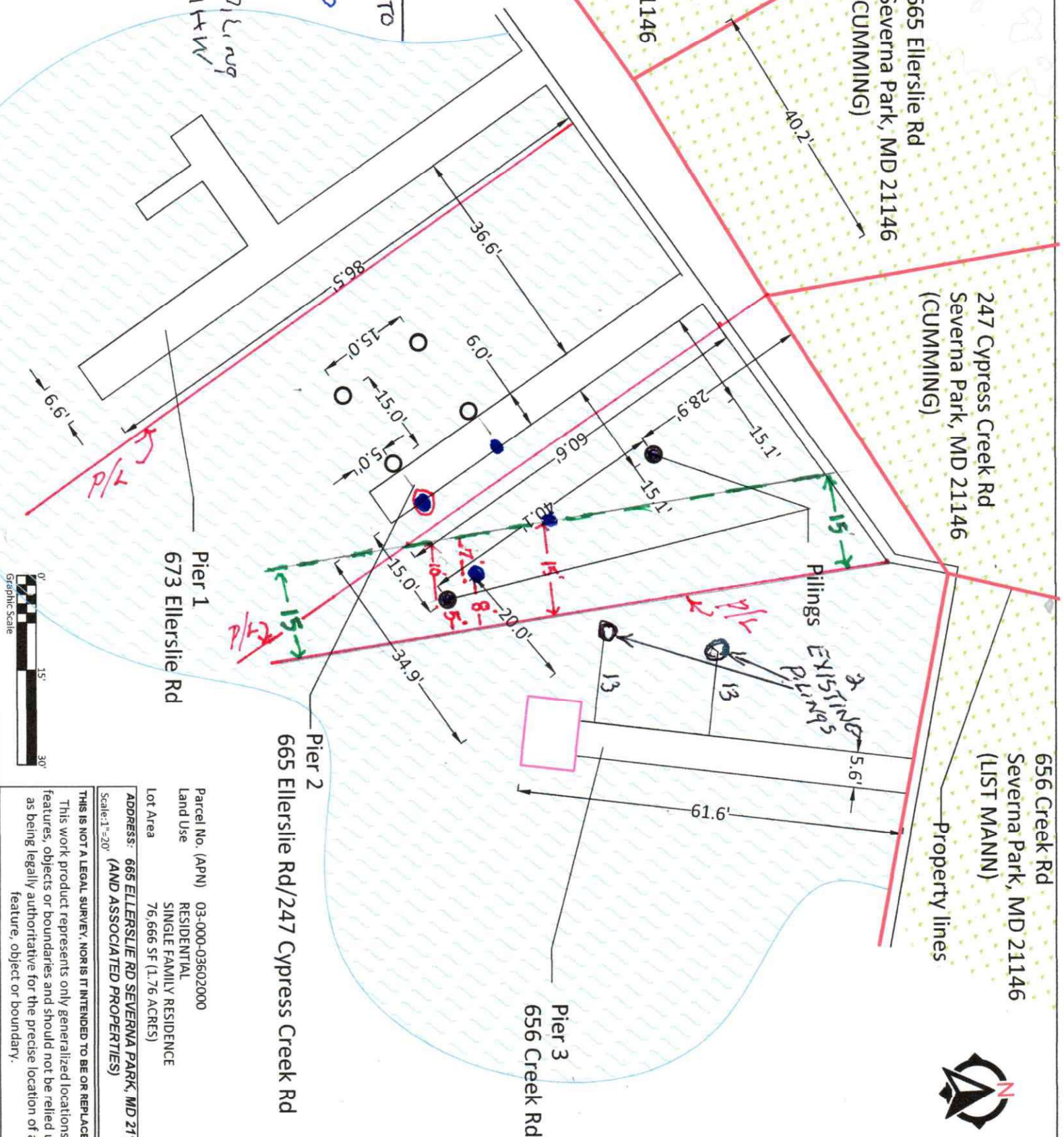
LEGEND

● = EXISTING TO
BE MOVED

● = RELOCATED
PILINGS

○ = NEW Pile

OUTBOARDED PILING
55' FROM MHW



Parcel No. (APN) 03-000-03602000
Land Use RESIDENTIAL
SINGLE FAMILY RESIDENCE
Lot Area 76,666 SF (1.76 ACRES)
ADDRESS: 665 ELLERSLIE RD SEVERNA PARK, MD 21146
(AND ASSOCIATED PROPERTIES)
Scale: 1"=20'

THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE
This work product represents only generalized locations of
features, objects or boundaries and should not be relied upon
as being legally authoritative for the precise location of any
feature, object or boundary.



247 Cypress Creek Rd

665 Ellerslie rd

673 Ellerslie rd

Pier 3
656 Creek rd

Pier 2
665 Ellerslie rd

Parcel No. (APN)	03-000-03602000
Land Use	RESIDENTIAL
	SINGLE FAMILY RES
Lot Area	76,666 SF (1.76 AC)

ADDRESS: 665 ELLERSLIE RD SEVERNA PARK, MD 21146

Scale: 1"=20'

THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE

This work product represents only generalized locations of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, object or boundary.

FEB 6-2025
EXISTING
CONDITIONS

Pier 1
673 Ellerslie rd

6211

Graphic Scale

February 27, 2025

Anne Arundel County Planning & Zoning.

Re: Variance

Explanation for requesting a piling Variance on an existing shared pier.

Currently the shared pier has one boat slip on the west side and 2 mooring pilings on the east of the pier.

Need a place for the second boat, so the 2 pilings on the east side will need to be relocated.

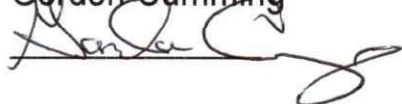
The channel ward existing piling on east side is 10' into the setback and 5' from property line. We propose moving it 5' landward, where it would be 7' into the set back and 8' from property line.

The landward piling needs to be moved 20' channel ward and would be on the 15' setback and 15' from property line.

This configuration has less impact on the adjacent property owners to the east, who have been contacted and have no objections.

Thank you for your consideration

Sincerely, owner
Gordon Cumming



Contractor/agent, Anderson Marine Construction Inc.

Lenny Anderson



5414-249

2

Should be

Lot 3
3BR
3BR

BOOK 5414 PAGE 249

RECIPROCAL CROSS EASEMENT AND
PIER SHARING AND MAINTENANCE AGREEMENT

This Agreement made this 21st day of August, 1991 by and between GORDON CUMMING and KAREN CUMMING, having an address at 665 Ellerslie Road, Severna Park, Maryland 21146 ("Lot A Owners"), and ROBERT P. HEIMAN and BARBARA LUTZ-HEIMAN ("Lot B Owners").

RECITALS

- A. The Lot A Owners are the owners in fee simple of that certain parcel of land known as Lot A ("Lot A") as shown on the Plat of minor Subdivision of the JENKINS-CUMMING PROPERTY recorded among the land records of Anne Arundel County, Maryland at liber 4647 folio 150 (the "Plat"). A copy of the Plat is attached as Exhibit A.
- B. The Lot B Owners are the owners in fee simple of that certain parcel of land known as Lot B as shown on the Plat ("Lot B").
- C. Lot A and Lot B both have shoreline fronting on Cypress Creek.
- D. The Lot A Owners and the Lot B Owners wish to share a single pier which will extend into Cypress Creek from the shoreline of Lots A and B.
- E. There is currently an existing pier (the "Existing Pier") which extends into Cypress Creek from Lot A and Lot B as shown on Exhibit A, but it does not allow for adequate access for the Lot B Owners to their shoreline.
- F. The parties wish to relocate the Existing Pier, agree upon the burden of responsibilities for the maintenance of the pier as relocated (the "Pier") and set forth certain guidelines for the ongoing use and enjoyment of the Pier by the parties, all as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, hereby agree as follows:

1. RELOCATION OF PIER - The Existing Pier shall be moved to a location which shall be mutually acceptable to the

3200
2000
2000

MICHAELSON, KRAUSE & FERRIS, P.A.
60 WEST STREET, SUITE 110
P. O. BOX 11
ANNAPOLIS, MARYLAND 21404
5-13185

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Anne Arundel County
KATHLEEN H. BOWMAN
Smw 9-17-91
NO TRANSFER NECESSARY

NO TAXES NECESSARY
8-26-91
CONTROLLER
TAX DIVISION

Parties. In the event that the Parties cannot agree on such location, then it shall be relocated so that it ^{provides equal riparian} extends from Lot access, an acceptable division identical in Exhibit A, Pier Attachment. ~~A into Cypress Creek parallel with the N 06° 24' 19" W 285.36' division line of Lots A and B. The Pier shall be located so that its center line is approximately in line with the aforesaid division line.~~ *DM*
EM
SFC

2. TIMING AND COST OF RELOCATION - The relocation of the Existing Pier shall be completed within one (1) year of the date hereof and the cost of such relocation shall be paid by the Lot B owners. The parties shall obtain a bid for relocation of the Pier and neither party shall perform or contract to have performed any work in connection with the relocation without the written approval of the other party, which may be satisfied by both parties signing a contract with a contractor for relocation of the Pier.

3. USE OF PIER AND CROSS EASEMENTS - The parties hereby grant to one another a reciprocal cross easement across their respective properties solely for access to the Pier. It being the intent of the parties that they shall both have an undivided one-half interest in the use and enjoyment of the Pier, for the benefit of their respective properties.

4. DOCKING RIGHTS - The Lot A Owners shall use the west side of the Pier for docking and the Lot B Owners shall use the east side of the Pier.

5. MAINTENANCE AND EXPENSE - The parties agree that they shall keep the Pier maintained and in good condition at all times,

which shall include but be not limited to repair of any damage, annual treatment of wood, and such other normal and regular maintenance normally required by Piers of this type. All maintenance expenses shall be shared equally by the parties.

6. INSURANCE - The parties shall maintain a policy of liability and property damage insurance for the Pier with both parties named as additional insured. The premiums for such insurance shall be divided equally among the parties.

7. PROCEDURE - The parties shall endeavor to meet at least annually to discuss and plan the maintenance of the Pier. The Lot owner with primary responsible for the maintenance of the pier (called "Primary Lot Owners") and shall be designated at that annual meeting. The Primary Lot Owners shall notify the remaining Lot Owners of any necessary repairs and their cost before they are performed. Except in the event of an emergency both parties must jointly contract for any repairs or maintenance. The Primary Lot Owners shall also be responsible for carrying the policy of insurance with respect to the Pier, which policy shall provide that it cannot be cancelled without written notice to the remaining Lot Owners. In the event that the Primary Lot Owners neglect their responsibilities hereunder or allow such insurance to lapse, the remaining Lot Owners shall have the right, upon written notice to perform any necessary function hereunder.

8. COMPLIANCE WITH LAWS - The parties hereby agree that they shall comply with all laws, rules and regulations of any governmental entity having jurisdiction over the operation of the pier.

9. EXTRAORDINARY EXPENSE - Neither party may improve

the pier or perform any relocation or extraordinary maintenance with respect to the Pier unless they have first given at least sixty (60) days prior written notice to the other party. In the event that the other party does not wish to participate in the expense of such action, it shall so indicate by written notice and in that event, the other party may proceed at its sole expense; provided, however, the Pier shall at all times be maintained as an approximately 60-foot, wooden Pier without extraordinary embellishments of any kind.

10. NO RIGHT TO BIND - Neither party shall have the right to bind the other party to any agreement of any kind whatsoever with any third party.

11. COVENANTS RUNNING WITH THE LAND - It is the intent of the parties that the subject of this agreement touches and concerns their respective properties and accordingly shall run with the land and be binding upon and inure to the benefit of their respective successors, personal representatives and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year above stated.

WITNESS:

LOT A OWNERS

Carlton Browning

Gordon Cumming
GORDON CUMMING

Tracie Ebe

Karen Cumming
KAREN CUMMING

LOT B OWNERS

Gordon Cumming

Robert P. Heiman
ROBERT P. HEIMAN

Barbara Lutz-Heiman

Barbara Lutz-Heiman
BARBARA LUTZ-HEIMAN

STATE OF MARYLAND:
COUNTY OF AA : ss

I HEREBY CERTIFY that on this 21 day of Aug., 1991, before me, the subscriber, personally appeared GORDON CUMMING and KAREN CUMMING, Lot A Owners, know to me (or satisfactorily proven) to be such persons, who executed the foregoing Pier Sharing and Maintenance Agreement for the purposes therein.

Alvane E. Sawyer
NOTARY PUBLIC

My Commission Expires: 8/17/94

STATE OF MARYLAND:
COUNTY OF AA : ss

I HEREBY CERTIFY that on this 21 day of Aug., 1991, before me, the subscriber, personally appeared ROBERT P. HEIMAN and BARBARA LUTZ-HEIMAN, Lot B Owners, know to me (or satisfactorily proven) to be such persons, who executed the foregoing Pier Sharing and Maintenance Agreement for the purposes therein.

Alvane E. Sawyer
NOTARY PUBLIC

My Commission Expires: 8/17/94

OU-2000-000




J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager 
Bureau of Environmental Health

DATE: April 8, 2025

RE: Gordon F. Cumming Jr., Revoc. Trust
665 Ellerslie Road
Severna Park, MD 21146

NUMBER: 2025-00037-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow mooring pilings with less setbacks than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above-referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

2025-0037-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

03/07/2025

Assigned to

Melanie Mathews

Current Status

Complete w/ Comments

Action By

Melanie Mathews

Comments

The property line extensions have been reviewed under building permit B02429361 and are determined to be correctly drawn using the point-of-cove method. The subject pier was previously approved under a joint pier agreement. A newly recorded joint pier agreement between the property owners is required. The critical area section of Planning and Zoning has no objection to the requested variance.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

☒ All ACA Users

☒ Record Creator

☒ Licensed Professional

☒ Contact

☒ Owner

Due Date

04/11/2025

Assigned to Department

OPZ Critical Area

Status Date

04/21/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

☐ Display E-mail Address in ACA

☒ Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

410-222-6136

Review Notes

Reviewer Email

PZMATH20@aacounty.org

Reviewer Name

MELANIE MATHEWS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER V-262-91
V-263-91

Re: GORDON and KAREN CUMMING
ROBERT and BARBARA HEIMAN

THIRD ASSESSMENT DISTRICT

DATE HEARD: OCTOBER 1, 1991

ORDERED BY: ROBERT C. WILCOX, ADMINISTRATIVE HEARING OFFICER

DATE FILED: NOVEMBER 5, 1991

PLEADINGS

The Applicants, Gordon and Karen Cumming (Case V-262-91) and Robert and Barbara Heiman (Case V-263-91), are petitioning for variances to permit a pier with less setbacks than required.

PUBLIC NOTIFICATION

At the hearing the Administrative Hearing Officer reviewed the file and ascertained that the case had been advertised in accordance with the provisions of the Code. Gordon Cumming and Robert Heiman testified that the property had been posted for more than fourteen (14) days prior to the hearing.

FINDINGS & CONCLUSIONS

The Applicants own adjoining waterfront lots located on Cypress Creek. The two properties, known as 665 Ellerslie Road and 247 Cypress Creek Road, comprise 4.5 acres (total) and are zoned R-5 Residential.

The proposal calls for the reconstruction, reconfiguration, and extension of an existing pier. The Applicants propose to erect a joint use pier by extending the existing pier to 65 feet in length. Four mooring pilings are proposed. The proposed pier would be located approximately 8 to 10 feet from the existing pier to the east.

The Anne Arundel County Code, Article 28, Section 10-111, requires that piers or pilings be located at least 15 feet from side property lines extended. As originally proposed, the joint use pier would exist along the applicants' common property line and the mooring

pilings would be 6 and 12 feet from the east side property line. Variances of 9 feet and 3 feet would be needed, respectively.

Richard Josephson, a zoning analyst with the Office of Planning and Zoning, recommended that the structure be moved slightly to the west so that the pier and pilings would be equally distanced between the east and west side property lines extended. The Applicants and their adjoining neighbor to the east agreed to reconfigure the pier in an effort to minimize the encroachment into the east side property line setbacks.

After the hearing was concluded, this office received a revised site plan which attempted to shift the proposed pier further to the west, thereby minimizing any setback encroachment along the east side property line extended.

On October 17, 1991, this office received a letter from the west side property owners (Wayne Pierzga, Benny Walters, and Betty Goldweis). In essence, these property owners did not object to a reconfiguration of the applicants' pier so long as the pier did not encroach into the 15 foot setback into the common west side property line. The revised plan submitted by the applicants appears to observe the 15 foot setback from the west side common property line extended.

We note that the Office of Planning and Zoning traditionally has supported joint use piers as a way of reducing the environmental impact of waterfront construction while at the same allowing property owners to maximize their use and enjoyment of the water.

CRITICAL AREAS

The subject property is located within 1000' of tidal waters. It is, therefore, subject to the Chesapeake Bay Critical Areas Law, Maryland Code, Natural Resources Article, Section 8-1808 et seq.

The Applicants have submitted the required environmental impact reports which were reviewed by the Office of Planning and Zoning and found to be acceptable. Based on the recommendations of the Office of Planning and Zoning, I find that:

1. The proposed addition will not have an adverse impact on water quality resulting from pollutant discharge, and
2. All fish, wildlife and plant habitats have been identified and the proposal will not threaten or diminish any of the habitats.

Based on the foregoing, I find and conclude that the proposed variances comport with the spirit and intent of the zoning law. There was no evidence that the revised pier and piling configuration will adversely affect any of the adjoining properties or alter the essential characteristics of the neighborhood. Because of the pie shaped nature of the subject properties, we find that the variances requested are the minimum necessary to afford relief.

Accordingly, the applicants shall be granted a variance of 5 feet to the 15 foot east side property line (extended) setback for the proposed pier and a variance of 12 feet to the required 15 foot east side property line (extended) setback to allow for the proposed pilings as set forth on the applicants' revised site plan.

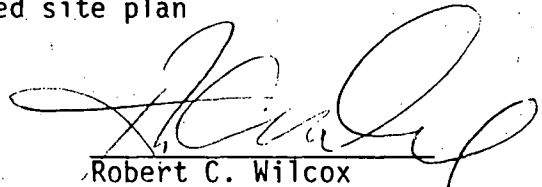
ORDER

PURSUANT to the application of Gordon and Karen Cumming (Case V-262-91) and Robert and Barbara Heiman (Case V-263-91), petitioning for a variance to permit a pier and mooring pilings with less setbacks than required, and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 5 day of November 1991,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County that the following variances are GRANTED:

1. A variance of 5 feet to the required 15 foot east side property line (extended) setback for the proposed pier.
2. A variance of 12 feet to the required 15 foot east side property line (extended) setback to allow for the proposed pilings as set forth on the applicants' revised site plan


Robert C. Wilcox
Administrative Hearing Officer

NOTICE

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A Special Exception or Variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the Special Exception or Variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

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FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND

APPLICANT: Thomas I. Baldwin

ASSESSMENT DISTRICT: Fourth

CASE NUMBER: 262-92

COUNCILMANIC DISTRICT: Fourth

HEARING DATE: January 21, 1993

PREPARED BY:

Richard Josephson
Planner

REQUEST

The applicant is requesting rezoning of 9.8 acres from RLD, Residential, to C4, Commercial.

LOCATION AND DESCRIPTION OF SITE

The subject property is located on the east side of Maryland Route 3 North immediately north of St. Stephens Church Road. The property is shown as Parcel 141 and 213, Tax Map 37, and is developed by a building and facilities used by Jones Intercable, Inc.

APPLICANT'S PROPOSAL

The applicant proposes to develop the property with an additional building and parking to be used by the Jones Intercable Company for their offices and operations. The existing building could be used for commercial purposes within the uses permitted in the C4 zone.

REQUIRED FINDINGS FOR ZONING RECLASSIFICATION

In accordance with Section 11-102(c) of the Anne Arundel County Zoning Regulations, a rezoning may not be granted except on the basis of an affirmative finding that:

- 1) there was a mistake in the zoning map or the character of the neighborhood has changed to such an extent that the zoning map should be changed;
- 2) the new zoning classification conforms to the County General Development Plan in relation to land use, number of dwelling units, or type and intensity of nonresidential buildings, and location;
- 3) transportation facilities, water and sewerage systems, storm drainage systems, schools, and fire suppression facilities adequate to serve the uses allowed by the new zoning classification, as defined in Article 26, Title 2, Subtitle 4, Part 2 of this Code, are either in existence or programmed for construction.
- 4) there is compatibility between the uses of the property as reclassified and the surrounding land uses, so as to promote the health, safety, and welfare of present and future residents of the County; and

- 5) for a property located in the Critical Area:
- (i) the permitted uses in the proposed zoning classification are compatible with the critical area land use designation and development standards for the property; and
 - (ii) the Chesapeake Bay Critical Area Commission has approved the rezoning if the basis for the rezoning is that the character of the neighborhood has changed to such an extent that the zoning map should be changed.

ZONING HISTORY

The subject property was zoned RA upon adoption of comprehensive zoning for the Fourth Assessment District in 1973.

During the most recent comprehensive zoning process, the property was shown as RLD on both the Proposed and Recommended Maps of 1987 and 1988. There appear to be no prefiles or petitions filed for the subject property. Subsequently, the property was designated RLD upon adoption of the Fourth District Zoning Map on June 12, 1989.

CHANGE/MISTAKE

While no petitions or prefiles were submitted for the subject property, there were a number of petitions filed for property in the vicinity of the subject property. Three petitions (CC1-016, CC4-118, and CC4-321) requested commercial zoning on property located on Route 3 to the south across St. Stephens Church Road (CC2-016), to the west and south across Route 3 (CC4-118), and directly to the west across Route 3 (CC4-321). None of these petitions resulted in a change to commercial zoning. It would appear that Council's intent, based upon their consideration of these petitions, was to maintain the present residential zoning in the vicinity of and including the subject property.

GENERAL DEVELOPMENT PLAN

The 1986 Land Use Map of the County's General Development Plan indicates rural residential land use for the subject property. Rural residential land use is defined as one dwelling per two acres or less density. The existing RLD zoning of the subject property is consistent with the designated land use of the GDP. The RLD zone allows one dwelling per five acres. A change to C4 zoning would be inconsistent with the policy of the GDP to discourage strip commercial development and to concentrate commercial uses in existing commercially zoned areas.

ADEQUACY OF FACILITIES

Based on comments received from the Department of Public Works, staff cannot conclude that roads are adequate to handle traffic generated by the development of the site with C4 permitted uses. Other agency comments do not indicate any conflict with public facilities.

COMPATIBILITY OF USES

The uses permitted in a C4 zone would not be compatible with the surrounding low density

Page 3

residential land uses.

RECOMMENDATION

Based on the above findings, staff cannot support the requested rezoning.

RJ/jmr

CASE # V-262-91
FEE PAID 105.00
DATE 8-9-91

3 signs



ZONE R5 ALEX 15 D6
200 MAP U116 1000 MAP

VARIANCE APPLICATION

~~PLOT A - GORDON + KAREN CUMMING~~

~~PLOT B - ROBERT + MARY JENKINS~~

Applicant: CONTRACTUAL PURCHASER PLOT B - ROBERT + BARBARA HEIMAN
(All persons having 10% or more interest in property)

Property Address: PLOT A - 665 ELLERSLIE ROAD SEVERNA
~~PLOT B - 247 CYPRESS CREEK RD~~ PARK, MD. 21146

Property Location: 215 feet of frontage on the (n, s, e, w) side of
CYPRESS CREEK RD. street, (road, lane, etc.); 275 feet
(n, s, e, w) of ELLERSLIE ROAD street, (road, lane, etc. (nearest intersecting street).

Tax Account Number 3-000-0360-2009 District 3rd Council District 5

Waterfront Lot Plots A+B Corner Lot PLOT A Deed Title Reference 4679/138

Zoning of Property R-5 Lot # A+B Tax Map 32E Block 02 Parcel 361

Area (sq. ft. or acres) LOT A - 2.35 ac. Subdivision Name CYPRESS CREEK
~~LOT B - 2.17 ac.~~ ~~JENKINS + CUMMING~~

VARIANCE TO PERMIT A PIER WITH LESS SETBACKS THAN REQUIRED
Description of Proposed Variance Requested (Explain in sufficient detail including distances from
property lines, heights of structures, size of structures, use, etc.) 1) JOINT OWNERSHIP AND/OR
USAGE AGREEMENT 2) MINOR RELOCATION OF PIER
CURRENTLY EXISTING 3) WAIVE COUNTY SET BACK
REQUIREMENTS

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Barbara Lutz Heimann
Applicant's Signature
BARBARA LUTZ HEIMAN - ROBERT P. HEIMAN

Print Name
4100 N. CHARLES ST. #109
Street Number, Street, PO Box
BALTO MD. 21218
City, State, Zip
467-1344 966-6995
Home Phone Work Phone

GORDON CUMMING
KAREN CUMMING
Owner's Signature
ROBERT JENKINS
MARY JENKINS
Print Name Robert Jenkins Maryellen Jenkins
247 CYPRESS CREEK RD.
Street Number, Street, PO Box
SEVERNA PARK, MD. 21146
City, State, Zip
544-2777
Home Phone Work Phone

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:

Kevin P. Doherty
Signature

8-8-91
Date

CASE # V-263-91
FEE PAID \$95.00
DATE 8-9-91

2 signed



ZONE R5 ALEX 15 D6
200 MAP 416 1000 MAP

VARIANCE APPLICATION

Applicant: ROBERT + BARBARA HEIMAN - PURCHASER - LOT B
(All persons having 10% or more interest in property)

Property Address: 247 CYPRESS CREEK ROAD SEVERNA PK.
MD. 21146

Property Location: 215 feet of frontage on the (n, s, e, w) side of
CYPRESS CREEK street, (road, lane, etc.); 215 feet
(n, s, e, w) of ELLERSLIE ROAD street, road, lane, etc. (nearest intersecting street).

Tax Account Number 3-000-90061404 Tax District 3rd Council District 5

Waterfront Lot ☒ Corner Lot ☐ Deed Title Reference 4679/140

Zoning of Property R-5 Lot # B Tax Map 32^E Block 02 Parcel 361
CYPRESS CREEK

Area (sq. ft. or acres) 2.17 ac. Subdivision Name JENKINS-CUMMING

VARIANCE TO PERMIT A PIER WITH LESS SETBACKS THAN REQUIRED
Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights of structures, size of structures, use, etc.) 1) WAIVE COUNTY SETBACK REQUIREMENTS AND ESTABLISH JOINT OWNERSHIP AND/OR USAGE AGREEMENT 2) MINOR RELOCATION OF PIER CURRENTLY EXISTING

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Robert P. Heiman
Applicant's Signature

Barbara + Robert Heiman
Owner's Signature

ROBERT P. HEIMAN

Print Name

4100 N. CHARLES ST #109
Street Number, Street, PO Box

BALTO. MD. 21218

City, State, Zip

467-1344

Home Phone

Work Phone

BARBARA + ROBERT HEIMAN

Print Name

247 CYPRESS CREEK ROAD
Street Number, Street, PO Box

SEVERNA PARK, MD. 21146

City, State, Zip

467-1344

Home Phone

Work Phone

For Office Use Only

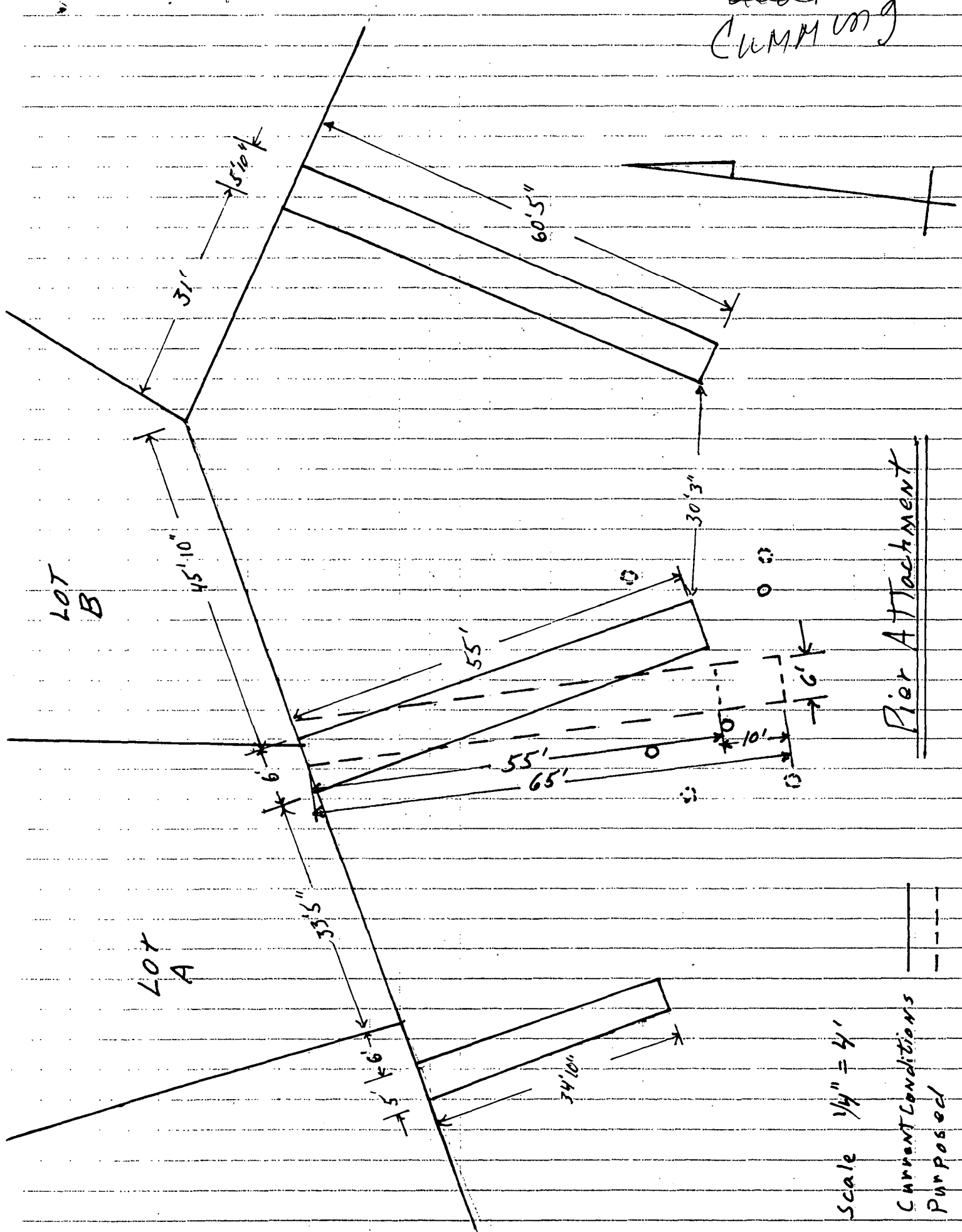
Application accepted by Anne Arundel County, Office of Planning and Zoning:

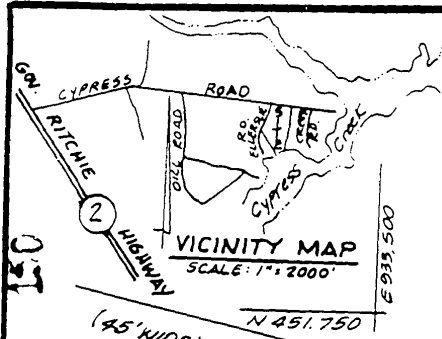
Heimann
Signature

8-8-91

Date

~~2020~~
CUMM m g

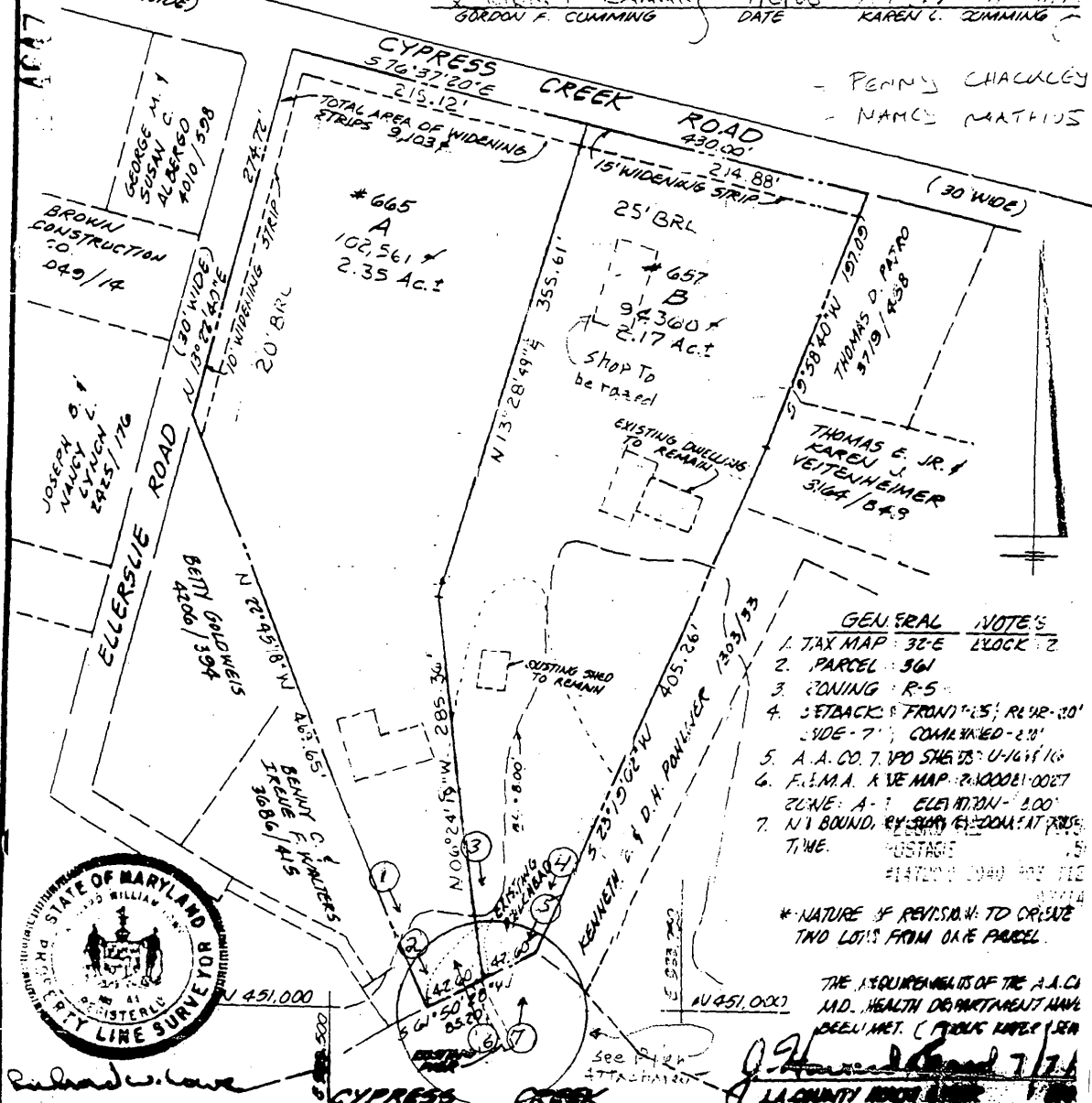




WE, ROBERT E. AND MARY E. JENKINS AND GORDON F. AND KAREN L. CUMMING, OWNERS, HEREBY ADOPT THIS PLAN OF SUBDIVISION AND ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES AND DEDICATE THE WIDENING STRIPS FOR PUBLIC USE TO BE DEDED TO ANNE ARUNDEL CO., MD. UPON REQUEST. THERE ARE NO LIENS, SUITS, TRUSTS, LEASES, MORTGAGES, ACTIONS OF LAW, EASEMENTS OR RIGHTS OF WAY AFFECTING THE PROPERTY IN THIS PLAN OF SUBDIVISION EXCEPT AS SHOWN. FOR TITLE SEE LIBER 176 PAGE 084. ALL PARTIES IN INTEREST THERETO HAVE AFFIXED THEIR SIGNATURES INDICATING THEIR ASSENT TO THIS PLAN OF SUBDIVISION.

Robert E. Jenkins 7/6/88 DATE MARY E. JENKINS
 Gordon F. Cumming 7/6/88 DATE KAREN L. CUMMING

- PENNY CHACKLEY
 - NANCY MATTHEWS



- GENERAL NOTES**
1. TAX MAP 32-E BLOCK 2
 2. PARCEL 561
 3. ZONING R-5
 4. SETBACK: FRONT 15'; REAR 20'; SIDE 7'; COMPAKED 2.0'
 5. A.A. CO. 7. VPD SHEETS U-145/16
 6. F.E.M.A. AVE MAP 2000010027
 7. N.T. BOUND. BY 300' ELEVATION AT 100' TIME
- * NATURE OF REVISION: TO CREATE TWO LOTS FROM ONE PARCEL



NOTE: LOTS A & B ARE AFFECTED BY THE COASTAL FLOODPLAIN AS ESTABLISHED ON THE FLOOD INSURANCE RATE MAPS BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). ELEVATION IS 8.00 FEET. FIRST FLOOD ELEVATIONS OF ALL STRUCTURES BUILT WITHIN SUCH LOTS SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF TITLE 8 OF THIS CODE, SUBTITLE 3, "FLOODPLAIN MANAGEMENT."

ADDITIONAL RESTRICTION AND CRITICAL AREA NOTES ON SHEET 2.
 MS-88-012 SHEET 1 of 2

JENKINS-CUMMING PROP
 ON CYPRESS CREEK ROAD
 3RD DISTRICT ANNE ARUNDEL COUNTY
 SCALE: 1"=100'
 TAX MAP: 32-E BLOCK: 2

LA COUNTY RECORD BOOK (PREVIOUS APPROVAL 5/7/88)
 Thomas A. DeLong, Jr. 7/7/88
 PLANNING & ZONING OFFICE OF ANNE ARUNDEL CO.

NOTES:

1. WAIVER # 2835 DATED APRIL 7, 1988 CONDITIONALLY APPROVED TO STORM DRAINAGE STUDY AND ROAD IMPROVEMENTS. FULL ROAD IMPROVEMENTS WILL BE REQUIRED AT TIME OF FURTHER SUBDIVISION OF THE PROPERTY SHOWN HEREON.
2. THE EXISTING PIER WILL BE EQUALLY SHARED BY LOTS A AND B IN A JOINT USE AGREEMENT INCORPORATED INTO THE FINAL RECORDED DEEDS.
3. IMPERVIOUS COVERAGE ON LOTS A AND B IS LIMITED TO 10,000 SQUARE FEET EACH (INCLUDING DRIVEWAYS).
4. ANY TREES REMOVED ONSITE MUST BE REPLACED.
5. THERE IS TO BE NO LATERAL EXPANSION OF ANY STRUCTURES IN THE BUFFER AS SHOWN ON THE PLAT WITHOUT AN APPROVED BUFFER MANAGEMENT PLAN.
6. AN INDIVIDUAL GRADING PERMIT IS NEEDED FOR EACH LOT.

ROBERT E. JENKINS

DATE

MARY E. JENKINS

GORDON F. CUMMING

DATE

KAREN L. CUMMING

JENKINS-CUMMING PROPERTY
ON CYPRESS CREEK ROAD
3RD DISTRICT ANNE ARUNDEL COUNTY, MARYLAND
MAY 1988
PARCEL 361

MS-88-012

SHEET 2 of 2

TAX MAP: 32-E

BLOCK: 2

V-26291
RE: An appeal for a Variance
to the Zoning Regulations

GORDON AND KAREN CUMMING -
ROBERT AND BARBARA HEIMAN,
Petitioners

(Protestant's appeal)

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF ANNE ARUNDEL COUNTY
* CASE NOS. BA 112-91V
BA 113-91V
* HEARING: January 13, 1992

MEMORANDUM OF OPINION

SUMMARY OF PLEADINGS

This is an appeal from the granting of a variance to permit a pier and mooring pilings with less setbacks than required on property located 215 feet on the south side of Cypress Creek Road, east of Ellerslie Road, Severna Park (joint use pier).

SUMMARY OF EVIDENCE

Testifying first was the Petitioner, Barbara Heiman. She presented a copy of the variance application which was filed in August and some sketches which have been added since that time. The sketches depicted the proposed pier placement. The two lots on which the pier will be placed total four acres. The property line which subdivides the lot touches the outside of the existing pier. The deed contains a joint use agreement for the pier. The Petitioners are proposing to reposition the pier away from the Protestant's pier to give them equitable access. As the pier is currently placed, if a boat is placed on the east side of the pier there is a problem because of the closeness of the Protestant's pier. The proposed placement of the pier took into consideration the existing pier on the other side of their property. The proposal places the pier exactly the mid distance between the existing piers

on either side. They used the center of cove method. The Petitioners want slightly deeper water and the issue now is the placement of a mooring pile. She testified that the placement of the mooring piles are not within the fifteen foot setback. She testified that she has tried to come up with an equitable solution and has looked closely at each of the Protestant's suggestions. None of his suggestions allow the Petitioners to have a mooring piling at the end of the pier. It would make no sense to move the pier if they could not tie up a boat. Upon cross examination, she stated that the plan was approved by the County. She stated that the house was on the lot when the pier was constructed and the property was legally subdivided. The pier was there prior to the subdivision of the property and they determined that the property was not a tidal wetland. She stated that they are requesting two pilings and wish to move one of the pilings five feet.

Testifying for the Protestant was Jack Fieck, a professional engineer who has prepared plans and applications for construction of piers as a part of his business. He stated that what is proposed by the Petitioners will have a mooring piling which blocks the Protestant's pier. He stated that there is a piling now in place which does not cause a problem for him. Under the present plan, the Protestant has three to five feet to move his boat and he needs ten to twelve feet. The line of division between the properties which he shows is the line which was established by the County in approximately 1989 when the Protestant added an extension to his pier. He then presented two plans which he proposed as an alternative so that each owner will have unimpeded use of his own

pier. The Protestant has four slips and owns three boats. The witness stated on redirect that plan A-1 does not require a variance unless the Petitioners want to relocate the existing piling. Plan A-2 does not require a variance on the Protestant's side, but requires a seven foot variance on the west side.

Testifying for the County was Rich Josephson, a zoning analyst with the Office of Planning and Zoning. He stated that the County's position is in favor of what the Petitioners are proposing and he stated that the Petitioners need two variances for placement of the proposed mooring pilings. The outermost piling is located three feet from the property line extended to the east and thus a twelve foot variance is needed; the innermost piling is located ten feet from the property line extended, thus a five foot variance is needed. He stated that the County supports granting the variances because it supports a joint use pier. The pier itself does not require a variance; the variance is for the pilings. The pier is located in an area where there is already an existing pier and pilings. In his opinion, the pier is located equidistant between the two existing piers. The unique situation calls for some relief and the amount necessary is the amount the Petitioners have proposed, which appears to be the most equitable solution. Upon cross examination, he stated that the reason for the fifteen foot setback is to provide access where boats will be docked at a pier and to provide maneuverability. The effect is to help congestion. He stated that the property to the west is only thirty feet wide; the property to the east is only sixty feet wide. The subject

property is eighty-five feet wide. The Petitioners are constrained because of the existing piers on either side.

Testifying as a Proponent was Wayne Piersden who stated that he has a permit to reconstruct his pier which is jointly owned by three families on four separate lots. They support the plan suggested by the Petitioners.

Testifying as a Protestant was Ray Bernard who lives on Cypress Creek on the east side of the Protestants. He stated that the placement does not directly affect his property. He opposes the Petitioners' request because he has concerns that his property value could be reduced and he does not want a dangerous precedent set.

All testimony was stenographically recorded and the recording is available to be used for the preparation of a written transcript of the proceedings.

FINDINGS AND CONCLUSIONS

In this case, the Petitioners are requesting variances to the zoning regulations for a joint use pier and for mooring pilings.

In order for the Board to grant the variances requested by the Petitioners, it must adhere to the standards set forth in Section 11-102.1 of the Zoning Article of the Anne Arundel County Code. Section 11-102.1 requires that this Board find unique physical conditions or exceptional circumstances other than financial considerations exist, necessitating granting a variance to avoid practical difficulties or unnecessary hardship. Furthermore, if this Board finds the existence of unique physical conditions or exceptional circumstances, Section 11-102.1 also requires the Board to find that the variances requested are the minimum variances

necessary to afford relief, and that granting the variances will not alter the essential character of the neighborhood nor substantially impair the appropriate use or development of adjacent property. The Board must also find that granting the variances will not be detrimental to the public welfare. Since this property is located within the designated critical area, this Board must also find that granting the variances will not be contrary to acceptable clearing and replanting practices required for development in the critical area, and that granting the variance will not be inconsistent with the spirit and intent of the critical area program and will not adversely affect water quality or adversely impact fish, wildlife or plant habitat.

The Petitioners are requesting a variance to permit a joint use pier on the common property line between lots belonging to the Petitioners and mooring pilings three feet and ten feet from the east side property line extended. Variances of twelve feet and five feet respectively are requested for the proposed mooring pilings. The Protestant has submitted alternative plans, one of which requires a seven foot variance for the placement of a mooring piling on the western side of the property.

After reviewing the testimony and exhibits, and conducting an on-site inspection, this Board believes that there are unique existing physical conditions which warrant the granting of variances for the pier and a mooring piling. The area is considered a cove because of the shoreline configuration and there is no possibility of developing the lots with two separate piers; even with a joint use pier, the Petitioners need a variance for a mooring piling.

Although the Petitioners have requested variances of twelve feet and five feet for mooring pilings located on the east side of the pier, this Board believes that the Protestant's Plan A-2 (Protestant's Exhibit 3) which requires a seven foot variance to the west side property line is the best solution. The Board believes that for equitable navigation rights, this is the minimum variance necessary and gives the greatest flexibility to the waterfront owners on either side. The Board also believes that granting the variance will not alter the essential character of the neighborhood because the Petitioners have an existing pier and there are existing piers on both sides. The replacement of the pier and mooring pilings merely creates a more equitable use and improves the existing situation. This Board also believes that granting a seven foot variance will not substantially impair the appropriate use or development of the adjacent property; as previously stated, it will merely make a more equitable use of the waterfront for all the properties. Furthermore, there is no indication that granting this variance will be detrimental to the public welfare because it gives all boat owners access to their piers. As to the critical areas findings, the impact study showed no adverse effect on the water quality or on the fish, wildlife or plant habitat. The Board also notes that the Petitioners can replace the existing mooring pilings in the same locations.

ORDER

For the reasons set forth in the foregoing opinion, it is this 14th day of May, 1992, by the County Board of Appeals of Anne Arundel County, ORDERED that the variances for a joint use pier and a seven foot variance from the property line extended to the west side for mooring piling are hereby granted. Attached to this memorandum is Protestant's Exhibit 3, which locates the placement of the pier and mooring piling. Furthermore, the Petitioners may keep or replace any of the existing pilings in their current locations.

Any appeal from this decision must be in accordance with the provisions of Section 604 of the Charter of Anne Arundel County, Maryland.

If this case is not appealed, exhibits must be claimed with sixty (60) days of the date of this Order; otherwise they will be discarded.

COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY

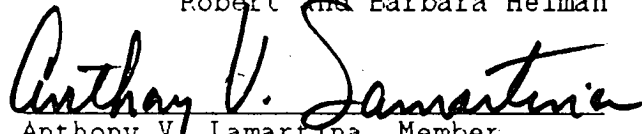
Barbara M. Hale
Barbara M. Hale, Chairman

F. George Deuringer
F. George Deuringer, Vice Chairman

John W. Boring
John W. Boring, Member

Joseph A. Johnson
Joseph A. Johnson, Member

EA 112-91V/EA 113-91V
Gordon and Karem Cumming
Robert and Barbara Heiman


Anthony V. Lamartina, Member


David M. Schafer, Member

(William C. Edmonston, Member, did
not participate in this appeal.)

PLAN A-2

This is a copy of Protestant's exhibit #3 of which the original is in the Board's file.

1992

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RE: An appeal for a Variance
to the Zoning Regulations

GORDON AND KAREN CUMMING -
ROBERT AND BARBARA HEIMAN,
Petitioners

(Protestant's appeal)

* BEFORE THE
* COUNTY BOARD OF APPEALS
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* CASE NOS. BA 112-91V
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* HEARING: January 13, 1992

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pier. The Protestant has four slips and owns three boats. The witness stated on redirect that plan A-1 does not require a variance unless the Petitioners want to relocate the existing piling. Plan A-2 does not require a variance on the Protestant's side, but requires a seven foot variance on the west side.

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ORDER

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COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY

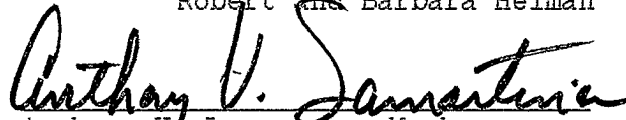
Barbara M. Hale
Barbara M. Hale, Chairman

F. George Deuringer
F. George Deuringer, Vice Chairman

John W. Boring
John W. Boring, Member

Joseph A. Johnson
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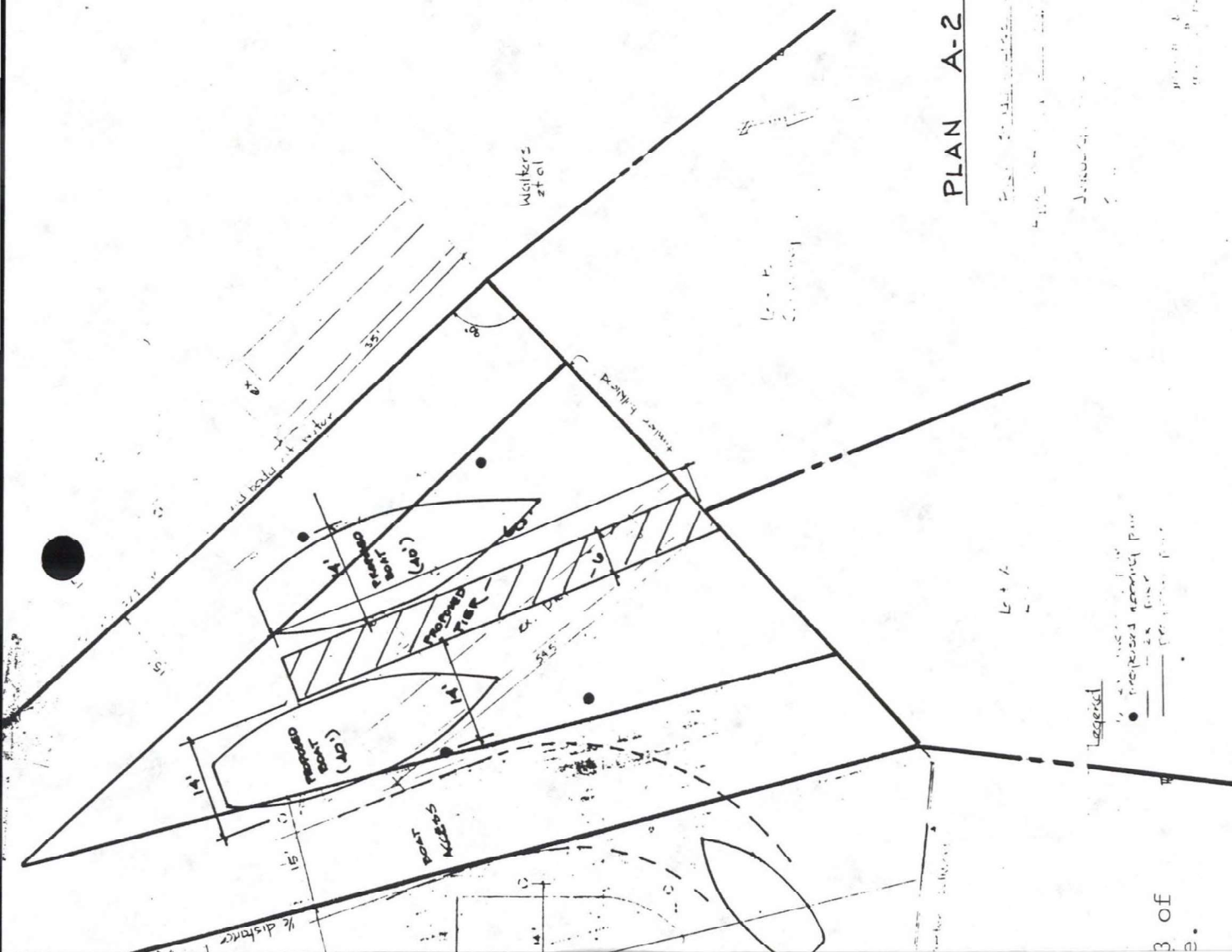
BA 112-91V/BA 113-91V
Gordon and Karen Cumming
Robert and Barbara Heiman


Anthony V. Lamartina, Member


David M. Schafer, Member

(William C. Edmonston, Member, did
not participate in this appeal.)

PLAN A-2



Legend

- PROPOSED PLANT
- PLANT



Legend

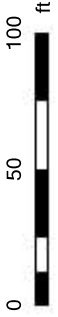
Foundation
Addressing
Parcels
Parcels - Annapolis City
Planning
County Planning



This map is a user generated static output from an Internet mapping site and is for reference only.
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

Notes

none



THIS MAP IS NOT TO BE
USED FOR NAVIGATION