

**OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPELLANT/  
APPLICANT:**

Genstar Stone Products Company  
11350 McCormick Road  
Hunt Valley, Maryland 21038

**ATTORNEYS:**

Charles O. Fisher Sr., Esq.  
Walsh & Fisher  
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Westminster, Maryland 21157  
(Attorney for Appellant/Applicant)

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(Attorney for Protestants)

**REQUEST:**

Appeal of the Zoning Administrator's determination that placement of overburden (earth and soil) on the subject site requires conditional use approval; in the alternative, conditional use approval for the orderly placement of overburden (earth and soil) from the adjacent permitted and existing quarry on the subject site so as to level the latter site and reclaim it for agricultural use.

**LOCATION:**

On the premises at 1240 Stone Chapel Road and the easterly portion of 1111 Medford Road in the Seventh (7th) and Eleventh (11th) Election District of Carroll County.

**BASES:**

Zoning Ordinance 1E: Article 17, Section 17.2 and 17.4; Article 6, Sections 6.3(f) and 6.7.

**HEARING HELD:**

January 7, 1988; Continued January 11, 1988; continued January 14, 1988.

The property in question is an approximately 80.4 acre parcel located southwest of Medford Road and northwest of Stone Chapel Road. The parcel is zoned "A" Agriculture and was purchased by the Appellant/Applicant in December, 1986. The use of the property, as stated at the hearing, is to provide an area to place unusable overburden on the property, in an orderly manner. The plan for placement, as outlined by Genstar, is to fill the

property in five acre segments, according to a plan approved by the Carroll Soil Conservation District. The overburden would come from quarry No. 2 and from the two stockpiles presently located adjacent to quarry No. 2. Once a five acre segment is completed, the segment would be returned to agricultural use.

The case came before the Board as an appeal of a determination rendered by the Zoning Administrator, expressed in a letter dated July 13, 1987, that the placing of overburden from a quarrying operation onto adjacent property constitutes a part of the quarry operation. If so, the property being used for the overburden would require conditional use approval from the Board in order to be used in the manner contemplated.

The initial issue before the Board is whether conditional approval by the Board is required in order to use the former Danner property for the placement of overburden created by the quarrying operation on the adjacent property.

Because the use of the Danner property for placement of overburden is incidental to and part of the quarrying use, the Board determines that conditional approval is required in order to use the Danner property for overburden and therefore affirms the Zoning Administrator's decision.

Notwithstanding the fact that the 80.4 acre parcel eventually would be returned to agricultural use, the property in question would be used as an integral part of the quarrying operation. Overburden is an inevitable result of the operation and must be placed somewhere. The mere fact that portions of the subject

property would remain in agricultural use until needed for placement purposes, and that the entire parcel would return to agriculture, does not change the fact that the property would be used as part of the quarrying operation. The appellant's own witness testified under cross-examination that the removal and disposal of overburden is part of the extraction operation process. The subject property is zoned "A" Agricultural, and extractive type industries are conditional uses in the "A" district; therefore, Board authorization is required.

The second issue before the Board is the request for a conditional use to approve the use of the former Danner property for the placement of overburden.

The applicant proposes to use the property in the following manner:

1. The two existing overburden stockpiles on the adjacent property would be removed and placed on the subject property according to the plan submitted to the Carroll Soil Conservation District.
2. The property would be used for overburden placement in five-acre increments. Once the five-acre increment is filled with overburden (approximately three months) that segment would be re-claimed for agricultural use and another five-acre piece opened for overburden placement. The remaining acreage would remain in agriculture until used.
3. The stockpiles would be removed during normal working hours through the use of off-road vehicles and bulldozers that are presently being used in the quarrying operations. No additional employees or equipment would be needed. Approximately 30-40,000 truck trips would be needed to remove the stockpiles, but all traffic generated would be confined to the quarry and

subject property. No traffic would be generated on the public highways as a result.

4. A berm would be placed around the perimeters so as to shield the residents' view. The toe of the berm would be no closer than 50-60 feet from the property line and would be approximately 20-25 feet high.

5. The topsoil for the five acre segment would be stockpiled immediately adjacent to the five acre site from which it came, to be replaced as topsoil upon completion of overburden placement.

6. Other than overburden placement, no extraction, quarrying or processing would take place on the subject property. There would be no storage of product on this property.

7. Dust control measures would be employed (e.g. re-vegetation, watering-down).

In considering the testimony and evidence submitted in opposition to this application and appeal, the Board has heard concerns voiced regarding vehicular traffic safety, aesthetics, noise, dust, water and adverse effects upon residential property values. The Board finds no probative testimony or evidence that the proposed use (i.e. placement of overburden on the subject property) as conditioned below would adversely affect the public health, safety, security, morals, or general welfare; or would result in adverse traffic conditions; or jeopardize the lives or property of people living in the neighborhood.

The granting of the conditional use will not allow more property to be mined beyond that which is already allowed in the AE zone. Furthermore, the orderly disposition of the overburden in the manner proposed makes sense.

Upon consideration of the testimony and evidence presented at the hearing the Board authorizes the conditional use of the 80.4 acre parcel, located at 1240 Stone Chapel Road and the easterly portion of 1111 Medford Road, for the sole purpose of placement of overburden (earth and soil) of the property for the adjacent quarry site and eventual reclamation to agricultural use. In order to promote and effectuate the intent and purpose of the Zoning Ordinance and to insure that the proposed use will cause no adverse effects at this location than elsewhere within the zone, the Board hereby conditions its authorization as follows:

1. The use of the property shall be pursuant to the plan presented to the Board and to the final grading plan as submitted to the State.
2. No extraction of any type shall take place on the subject property except the temporary removal of topsoil.
3. The property shall be returned to agricultural use upon completion of overburden placement for each five-acre segment and upon completion of the plan.
4. The portion of the property not being worked shall remain in agricultural use.
5. There shall be no stockpiling of any material other than top soil from the five-acre parcel, which is to be used in reclaiming the five-acre portion.
6. The hours of operation on the subject property shall be limited to 8 a.m. until 6 p.m., Monday thru Friday with no Saturday operation.
7. In accordance with the testimony of applicant, overburden to be placed on the property shall be from Pit #2 and the two stockpiles presently located near Pit #2 only.
8. In order to prevent dangerous traffic conditions to and from the subject property, and in accordance with applicant's testimony, traffic shall be limited to internal traffic

from the immediately adjacent quarry site. No additional traffic shall be generated on public roads for the purpose of moving overburden to the subject property.

9. Dust control measures shall be put in place and maintained throughout the overburden placement process.

10. A landscaping berm shall be placed on all sides of the former Danner property facing property other than that owned by Genstar, subject to written requests for an alternative method of screening by the property owners located on the westerly side of Stone Chapel, and immediately adjacent to the subject property.

Before beginning work on the berm, the applicant shall provide, for each adjacent property owner, either:

a) A statement signed by both parties agreeing to the berm; or

b) A statement signed by both parties setting out the alternative to the proposed berm. Any change to the berm must be approved by the Carroll Soil Conservation District and its approval noted by signature on the statement.

c) In the event no agreement is reached, the matter shall be referred to the Board for final determination at the next scheduled hearing date, subject to approval by the Carroll Soil Conservation District.

11. For screening purposes, six-foot white pine trees shall be planted along the top of the berm, in three rows which shall be on ten foot centers and offset. Genstar shall maintain trees and replace any diseased trees or trees that die.

12. The property line presently existing between the subject property and the adjacent property owned by the applicant shall remain the property line for purposes of set back requirements on the site being quarried.

13. All work is to be performed pursuant to an approved site plan.

The Board directs the Secretary to forward a copy of this decision to the applicant, applicant's attorney, protestant's attorney, the interested parties as noted within the record of this case and the Zoning Administrator.

June 17, 1988  
Date:

John Totura  
John Totura, Chairman