

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

APPLICANT: Genstar Stone Products Co.  
11350 McCormick Road  
Hunt Valley, Maryland 21038

ATTORNEY: Charles O. Fisher, Esq.  
179 East Main Street  
Westminster, Maryland 21157

REQUEST: Reconsideration of conditions imposed by the Board of Zoning Appeals concerning establishment by Genstar Stone Products Company of berms and landscape screening required by the Board in authorizing the conditional use in Case 2873.

LOCATION: 1240 Stone Chapel Road and the easterly portion of 1111 Medford Road in Election Districts 7 and 11.

BASIS: Article 17, Section 17.2; Ordinance 1E.

HEARING HELD: September 28, 1988

On September 28, 1988 the Board of Zoning Appeals heard testimony and received evidence pertaining to reconsideration of conditions imposed by the Board concerning establishment by Genstar Stone Products Company of berms and landscape screening required by the Board in authorizing the conditional use in Case 2873 on the premises at 1240 Stone Chapel Road and the easterly portion of 1111 Medford Road in Election Districts 7 and 11. Based on the record of this case, the Board amends the conditions as noted below.

FINDINGS OF FACTS

In Case 2873, the Board approved a conditional use for the orderly placement of overburden (earth and soil) from the adjacent permitted and existing quarry onto this site, and for the eventual reclamation of this site to agricultural use, subject to a number of conditions. Condition 10 specifies:

"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 County 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."

Condition 11 specifies:

"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."

Agreements were executed between Mr. and Mrs. Robertson, Arundel Corporation, Mr. Hill, Mr. and Mrs. Crigger and Genstar, Applicant's Exhibits 1a-1d respectively. Mr. Carnes and Mr. Gates, whose properties front on Stone Chapel Road and adjoin Genstar's property, did not sign an agreement. Genstar advised the Board by letter dated August 17, 1988 that forty-five days had elapsed since the Board's decision had been issued, and requested scheduling of a public hearing for the Board to resolve the problems, including the type of trees to be used for landscape screening and construction of the landscaping berm.

Testimony confirmed that white pine trees previously planted by Genstar for landscape screening of the quarry have not successfully adjusted to the alkaline soil. A number of trees have died. The remaining trees are stressed and will probably not survive. If the trees do survive, the screening they provide will be meager. In contrast to the white pine trees, Leyland cypress trees are hardy evergreens, particularly adaptable to the prevailing conditions of the site, and capable of

providing the desired screening of the site.

With the anticipated relocation of Medford Road from between Stone Chapel Road and Avondale Road, it is evident that little purpose would be served by requiring the berm to be constructed along what will become the previous frontage on Medford Road. It is also probable that the landscaping berm would be of little benefit where Genstar's property abuts Arundel Corporation's property.

As discussed during the public hearing, the Board recognizes the topographic differences between Genstar's property and the adjoining properties of Mr. Gates, and Mr. Carnes. However, in considering the immediate and future effects of the project, including reclamation of the property for agricultural purposes, it is evident that the landscaping berm as now indicated on the "Revised" Sediment Control Plan, Applicant's Exhibit 3, and the landscape screening with Leyland cypress trees are appropriate where Genstar's property adjoins Mr. Gates' and Mr. Carnes' properties.

The original conditions of authorization were imposed to promote the intent and purpose of the zoning ordinance. Although it is now necessary to amend conditions 10 and 11, the Board is convinced that the amendments are consistent with the original conditions, as well as their intent and purpose.

#### CONCLUSION

Therefore, conditions 10 and 11 of authorization in Case 2873 are hereby amended to read:

10. A landscaping berm shall be placed along the southeasterly property line adjacent to Stone Chapel Road, the property lines adjoining the residential properties fronting on Stone Chapel Road, and the portion of the southwesterly side property line as shown on the "Revised" Sediment Control Plan identified as Applicant's Exhibit 3; and, in accord with the agreements executed by Mr. and Mrs. Robertson, Mr. Hill, Mr. and Mrs. Crigger and Genstar.

Initially, the landscape berm shall be constructed nearest the first five acre increment to be filled. Thereafter, construction of the landscape berm and placement of the overburden may proceed jointly. Construction of the landscape berm shall be pursued in a reasonable manner in order to complete the landscape berm and establish the landscape screening. However, the entire landscape berm and landscape screening need not be completed prior to initiating transfer of the overburden to the first five acre increment to be filled.

The landscaping berm adjacent to Medford Road extending northwest of the surface drainage pipe crossing under Medford Road as shown on Applicant's Exhibit 3--about four hundred fifty feet west of Stone Chapel Road intersection, and the landscaping berm opposite Arundel Corporation's property are no longer required, subject to approval of the Carroll Soil Conservation District.

Any change to the landscaping berm must be approved by the Carroll Soil Conservation District and its approval noted by signature on the respective agreement. A copy of such revised Sediment Control Plan shall be filed with the record of this case.

11. For landscape screening purposes, Leyland cypress trees, three to four feet tall shall be planted along the top of the berm, in three rows, ten feet on centers with each row offset. Genstar shall maintain the trees, and replace any trees that become diseased or die.

Nov 15, 1988

DATE

  
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JOHN TOTURA, Chairman