The Baltimore Gas & Electric Co.,

OF

BALTIMORE COUNTY
No. 5739-X

.......

OPINION

This case arises from a patition on behalf of the Boltimore Gas and Electric Company for a special exception for an electric transmission line carrying 115 thousand volts from the Company's fing but line at the Summerfield Station along the unused former right-of-way of the Maryland and Pennsylvania Railroad to the Company's East Townon Substation. The Company has acquired the right-of-way and rust how at the special exception to use it for this purpose except for such portions of it as may be zoned "M-L" or "M-H" which, in the present case, is a minimal part of the entire route.

The granting of this, as in the case of any special exception, is dependent upon the fulfilling of the conditions as set forth in Sections 502, 1 and 502, 2 of the Baltimore County Zoning Regulations as modified or amplified by the special zoning set up in Section 411 of the Zoning Code. The Zoning Commissioner passed on order in effect requiring that the entire portion of the transmission line within the Metropolitan Zone be placed underground, and that the portion of the line outside of the Metropolitan Zone has coverhead on lattice work steel towers as originally proposed by the Company. It is from this order that this appeal was taken by the petitioner.

Section 411 of the Zoning Regulations provides as follows:

Section 411 - PUBLIC UTILITY USES

For public utility uses permitted only by Special Exceptions in addition to the provisions of Section 502, the following regulations shall apply:

- tions shall appry:

 411.1 The use must be needed for the proper rendition
 of the public utility service and the location thereof shall not
 seriously impair the use of neighboring property.
- 411.2 In any residential zone in the Metropolitan District of Baltimore County, public utility buildings and structures, to the extent practicable, shall have an exterior appearance

harmonious with the general character of the neighborhood, including architectural treatment, landscaping, screen planting and/or fencing, and plans therefor shall be approved by the Zonio Commissioner.

- 411.3 Electric light and power transmission lines carrying more than 35,000 volts shall be governed by the following principles, standards, rules, conditions and safe-guards (in addition to the aforegoing):
 - o. For the purposes of the control of the location and contruction of such selectic light and power transmission lines, there is hereby created an additional zone which shall conform to the present or future boundaries of the Metropoliten District of Sellimore County of the Metropoliten District of Sellimore County Within the said Metropoliten Zone, but excluding Mounfacturing Zones therein, the Zoning Commissioner or the County Board of Appeals, youn appeal, shall have the power to require that under increasing the sellimination lines or periods thereof be line that the county and power to the county and power to require that such execution lines or periods thereof be line that the county and the County Board of the County Board of
 - Zoning Commissioner and the County Board of Appeals, upon appeal, shall consider and oe guided by the following factors and standards:
 - (1) The crossing of much traveled highways
 - or streets;

 (2) The proximity of the line to any school, church, theatre, club, museum, fair ground, race track or other place where persons may concretate:
 - persons may congregate;

 3) The probability of extensive flying over the area and its general nearness to any
 - (4) Any fire hozard or interference with fire-lighting equipment due to the location and construction of the pro-
 - posed line;
 (5) The future conditions to be reasonably anticipated in each such area in the
 - onticipated in each such area in the normal cours of development; of the property of the prope

(7) Any other matter or thing deemed by him or them to be material in connection with the public health, refers or constall welfare.

This Board has come to the unanimous conclusion that the special exception should be granted, but that the petitioner be required to place its transmission line under ground from a point south and west of the Boltimore County Betway and Lock Raven Boult vard, said point being/more or less, contigrous to lot 34, section 2 of the Cramwell Heights development, westerly to its terminus of the East Townon Substation, and with the further condition and restriction that the overhead partian of the line running costerly for the oforesaid point shall be carried and supported by dodecahedral steel poles pointed or earn or another color to blend, in so for as possible, with the general landscaping of the right-of-way for the entire overhead distance to the Substation, including that portion of the line passing through or near the Mayland Training School for Boys.

This decision has been reached, for the benefit of those who are impelled to read further, upon the findings of fact and reasons set out intrefinaliter. The board conducted six full days of hearings of testimony in this case and there are fifty-three exhibits, many of them consisting of a many as twenty-seven photographs each, and including a fifty pound cross-section of a dodecohedral steel pole; sections of high pressure cab¹y in all filled pipe; sections of aluminum overhead conductor cables; and a series of seven aerial photographs of the entire route of a size of approximately twelve square feet each. Obviously it is impractical, if not impossible, for every bit of testimony and every exhibit to be mentioned in this opinion, but the Board wishes to observe that it has carefully considered each and every exhibit may be accorded to the control of the control

At the outset it was practically concaded that the requested use is needed for the proper present and future rendition of the public utility service, and that the selected location was almost a tailor-mode route requiring much less disruption of other established uses than any other possible location. It is certainly doubtful if the proposed use could seriously impair the use of neighboring property any more, if as much as, its previous long

It is, of course, debatable whether any electric transmission line, overhead or underground, with the necessary apportenances could possibly add to the beauty of the land scape or be one hundred percent harmonious with the general character of a residualizing neighborhood. However, it is the Board's finding that the proposed use will have an appearance harmonious with the general character of the trea traversed "to the extent prosticable" as provided by Section 411.2 of the Zoning Regulations.

With respect to the factors and standards provided by Section 411.3, the Board finds, as matters of fact, the fallowing:

- (1) There is no serious problem involving the crossing of much traveled highways as streets with the exception of the crossing of the mojor highways at or near the interaction of the Bethway and Loch Raven Boulevard, and we are convinced from testimony in this case that the sofest an most practical way of crossing these well traveled highways would be averhead, among after resons, because it was testified than an underground installation crossing these highways would be are much as twenty-eight (28) feet underground which if there were a becaute an extremption a service would cause a serious disruption of traffic on these highways while repoirs were under way, as against the comparative case of repoir-tion are considered from the read four than the contraction of the contraction of
- (2) We find that the proximity of the line to any school, church theater, club, museum, fair ground, race track or other place where persons may congregate is not a serious factor in the case nor it.
- (3) The probability of extensive flying over the area and its general neonress to any airport because almost; if not all, of the overhead particles will be on the north idea of a fairly steep hillside well removed from any such places and the tops of the proposed steel poles will be, in almost every instance, below the crest of the hill or ridge along which they will be placed niong the old Manyland and Pennsylvania right northways.
- (4) We can find no serious evidence to support any fire hazard or interference with fire-fighting equipment due to the location and

construction of the proposed line, and as we have pointed out,
in the area allowed to be overhead the repair time necessary to
restore and clear the roads would be less than if the roads were
required to be closed during the necessary excavation for under
ground repairs many feet below the surface of these roads.

- 5 -

(5) The futurs conditions to be reasonably anticipated in the areas involved should be of great interest to all citizens of Baltimore County. Uncontrodicted settimony indicates that the Gas and Electric Company served a population in this area of 28,000 in 1940, and a reasonable projection indicates a population of 180,000 by 1980. At the present time the Company's ring line all around the Metropoliton area couries 115 kv, and it is estimated that the Towason area will need at 1544 Towason (1994) of 1995, and that the present time has a cospocity of only 71,000 at a pressure of 33 kv, and there is a definite need for a new 115 kv line to insure adequate services for this area in the contract services for this area in the contract services for this area in the composition of the contract services for this area in the composition of the contract services for this area in the composition of the contract services for this area in the composition of the contract services for this area in the composition contracts.

(6) As a factor (but not the only impelling one) in the case, the testimony as to the comparative cost of overhead vs. under ground lines is quite interesting. Witnesses for the Company and specifically, Thomas W. Trice, Vice President for Operations produced evidence that the acquired costs of the right-of-way was approximately \$375,000, and that the costs of construction and installation, excluding the right-of-way costs, would be approximately \$87,000 per mile overhead and \$449,000 per mile underground, in addition to which the terminal facilities, that is to say the equipment necessary when a line goes from underground to overhead or vice-versa, would cost approximately \$117,000 for each pair of connections. This difference in cost is apparent delimited mainly by the best system yet devised for underground installation which involves putting highly specialized copper conductors, insulated in a unique manner, inside of a steel pipe containing oil under high pressure as apposed to stringing of aluminum cable conductors uniquilated on overhead facilitie (see petitioner's c.hibits 3, 4, 11 and 12). Mr. Trice also testified that the Company is offering to abandon its previous proposal for using the familiar (and ualy) lattice work structures to carry the overhead line and suggested, in lieu thereof, a more modern and salutary, from an aesthetic point of view, dodeca hedral steel poles which are in use in a number of other places,

testified to by various witnesses (see petitioner's exhibits I, 2, 13, 15, 14. 16, and 17). The cost figures as presented by this witness would indicate that the total cost of the entire approximate five mile route would be \$2,400,000 underground as against less than \$450,000 over heed and, of course, proportionately if part of the line were above and part below ground. These figures were disputed by testimon on behalf of the protestants and were the subject of intensive cross-examination by counsel for the protestants to the alleged effect that the proportion between the cost of underground vs. overhead lines would be somewhat in excess of 3 to 1 rather than the 5 to 1 basis suggested by the Company's witnesses In any event, it seems clear to the Board that the total comparative cost of underground construction for the entire distance is a factor reasonably to be considered, particularly in view of the fact that utility companies, in the final analysis, must obtain their funds for such purposes from their subscribers, and that the additional cost would eventually affect all residents of the total area served by the Company, and not just those few who might or might not be affected by the construction of this particular power transmission line. That the above is a serious factor to be considered in a case of this nature is shown by the policy of the legislative authorities of Baltimore County as stated in Section 411.3 (6) of the Zoning Regulations

(7) The Board does not find any other motters, deemed to be material in connection with the public health, safety, or general welfare, which are not at least reasonably debatable, although it is possible that the installation of a power line (in itself a necessity and even perhaps a necessary "evil") could hardly be considered as an improvement to contiguous property except, of course, by way of providing the necessary electric power required to operate the number of modern homes and industries existing and expected in this area in the very near future. The Cromwell Bridge Valley, wherein will lie a portion of this power line as determined by the Board, is an area of open spaces and large lots, and recent decisions of this Board have indicated that it will remain that way in line with the policy of the Baltimore County legislative authorities as reflected in the Zoning Maps, Zoning Regulations, and recommendations of the Department of Planning and Zoning.

The Department of Planning and Zoning filed its memorendum of recommendations with the Zoning Commissioner as required by Section 5:00, 2 (d) of the Zoning Regulations, and it was supported by the testimony in this case of Mr. George S. Gevrellis, the Director of the Office of Planning and Zoning, and its recommendation was substantially the same as the determination received by the Board herein, with the exception that the Board is requiring thr. use of dodecahedral poles in place of the lattice work which was under consideration at the time that the Planning stoff mode its study. In fact, it would be well to quate here paragraph 3 of Mr. Govrelis' memorandum to Mr. John G. Rose, Zoning Commissioner, of December 27, 1952 with which the Board is in substantial

"As a guide for its recommendation, the Planning steff has utilized a standard which it seeks to implement in cases where new residential development is proposed adjacent to overhead transmission lines. A 100 foot setheoic is sought between any new residential improvement in me developments and the edge of a high valloge transmission line right of way. Although arbitrary, the actra setheoic attempts to temper any adverse effect of the power line by extra distances. Examination of load us and indicates that all of the houses on the north side of Book Road in the Greenbeir Subdivisions do not conform to this standard nor do all of the dwellings in the Cramwell Heights Subdivision. The Planning staff recommends therefore, that in order best to comply with the health, sciety or general welfers that that portion of the transmission line westerly from a point more or less at Lot 34, Section 2 – Cramwell Heights, be placed underground to the terminus in East Towan."

This quoted language from the aforesaid memorandum is on adequate paraphrase of the testimony of Mr. Govrelis on the witness stand in this case when called as a witness by the protections, and these comments were referred to by him in his testimony.

With respect to the effect of the overhead line on the values of neighboring property as a factor in the consideration of "general welfare", there was testimony of expert real estate men on both sides as well as that of various land owners and others which, in the opinion of the Board, was not on balance convincing that any damage to property values would be sufficiently material to offset the generally observe effect to the general

public of the vast difference in construction costs of the alternate methods. There was also conflicting testimony as to what might be called the safety factor and it appears to the Board that any means of transmitting electricity at 115 thousand volts cannot be completely free from some unforcesen occurrence which night, in the future, be a hazard to the public safety. Neither this Board or any other public authority known to it can prevent people so disposed from flying model airplanes on metal wires near high tension lines, nor prevent some happy citizen full of beer or animal spirits from climbing a 115 thousand volt transmission line tower to prove his prowess. The fact that such things have occurred can have no connection with the "public health, safety, or general welfare" of all of the citizens of Boltimore County.

It is further to be noted that the provisions of the Zoning Regulations with respect to special exceptions (502.1) have been compiled with in this case, and this Board flidds, as a fact, that the special exception requested will not create any of the hazardous situations contemplated in Section 502.1 (a, b, c, d, e, and f).

On the above reported findings of fact and conclusions, the Board's decision is as stated at the outset of this opinion and an order to that effect will be entered accordingly.

ORDER

Any appeal from this decision must be in accordance with Chapter 1100, subtitle 8 of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

G. Mitchell Ciust

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BALTIMORE GAS & ELECTRIC COMPANY, a body corporate (Appellant) CYRCUIT COURT ALBERT L. DEEN, JR., et. al. (Protestants & Cross-Appellants) AT LAN G. MITCHELL AUSTIN, W. GILES PARKER and Misc. Case 63179 WILLIAM S. BALDWIN, the COUNTY BOARD OF APPEALS OF 465 DALTIMORE COUNTY.

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ORDER FOR APPEAL

MR. CLERK!

Please enter an Appeal to the Court of Appeals of Maryland from the Order of the Circuit Court for Baltimore County, at Law, dated July 17, 1965, in the above entitled case, on behalf of Albert L. Deen, Jr. and Harry Stringer, individually and as representatives of the owners of property in the housing area known as "Greenbrier"; William C. Franz, individually and as representative of the owners of property in the housing area known as "Cromwell Heights"; Thomas G. Butler, individually and as representative of the owners of property in the housing ares known as "Cross Valley"; Howard H. Holland, Jr., G. Helvin Smith and Samuel Walker, individually and as representatives of the owners of property in the housing area known as "Crommood-Coventry"; and Lee H. Reber, individually and as representative of the owners of property in the housing area known as "Summerfield", Protestants and Cross-Appellants.

> Alchard A. Reid Campbell Building, Yowson, Md. 21204 Attornsy for Protestants and Cross-Appellants Bichard A. Reid

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was mailed by me this 14th day of July, 1965, to Paul S. Clarkson, Esq. and William Baxter, Erq., 1707 Gas and Electric Building, Ealtimore, Maryland 21201, and to James H. Cook, Esq. 22 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorneys for Baltimore Gas & Electric Company; and to the County Board of Appeals of Baltimore County, County Office Building, Towson, Mary-1aml 21204

> Richard A. Reid Campbell Puilding Towson, Maryland 21204 823-1800

Atterney for Protestants and Cross-Appellants

BALTIMORE GAS & ELECTRIC COMPANY, . CIRCUIT COURT

FOR G. MITCHELL AUSTIN, W. GILES PARKER, WILLIAM S. BALLWIN, BALTIMORE COUNTY constituting the COUNTY BOARD OF APPEALS OF AT LAW BALTIMORE COUNTY Misc. 7/465/3179

ORDER

The above entitled cause having come on for hearing on appeal, the Court having fully reviewed the record, together with the memoranda filed on behalf of the respective parties, counsel for the parties having been fully heard, and the entire matter having been fully considered by the Court, it is ORDERED by the Circuit Court for Baltimore County this 17th day of June, 1985 that the Order of the County Board of Appeals granting the special exception petitioned for is hereby affirmed, however, such part of that Order of said County Board of Appeals as requires the petitioner "to place its transmission line underground from a point south and west of the Baltimore County Beltway and Loch Raven Boulevard, said point being, more or less, contiguous to lot 34, section 2 of the Cronwell Heights development, westerly to its terminus at the Last Towson Substation" is reversed; and the case is remanded to the County Board of Appeals for the passage of an appropriate Order authorizing the granting of the special exception for the construction of the power line upon dodecahedral steel poles for the entire length of the route covered by the petition, for the reasons set forth in the Opinion heretofore filed by this Court.

SN. albert Marchen

BALTIMORE GAS & ELECTRIC COMPANY, . IN THE a body corporate CIRCUIT COURT FOR G. MITCHELL AUSTIN, BALTIMORE COUNTY W. GILES PARKER, and WILLIAM S. BALDWIN, constituting the County Board of Appeals

ORDER FOR APPEAL

Mr. Clerk:

of Baltimore County

Please enter an appeal on behalf of the Baltimore Gas & Electric Company from the County Board of Appeals of Baltimore County to the Circuit Court for Baltimore County in the matter of a Petition for Special Exception for the operation and maintenance of 115 K.V. electric transmission lines on property in the 9th Election District of Baltimore County following generally the route of the abandoned right of way of the Maryland and Pennsylvania Railroad from Fairmount Avenue in Towson northerly to a point at the Gunpowder River. This appeal is from the Order of the County Board of Appeals of Baltimore County in case number 5739-X, dated January 14, 1965; and this appeal is being filed pursuant to the provisions of Chapter 1100, Sub-title B, of the Maryland Rules of Procedure

22 W. Pennavlvania Avenue Towson 4, Maryland

CERTIFICATE OF SERVICE ON AGENCY

I HEREBY CERTIFY that on this 22nd day of January, 1965 a copy of the aforegoing Order of Appeal was served by me on the County Board of Appeals for Baltimore County by leaving copy of same with the Clerk thereof at the offices of said agency at the County Office Building, Towson 4, Maryland.

COOK, MUDD & HOWARD TOWNON & MARYLAND

March 11, 1964

Mr. John G. Rose Zoning Commissioner for Baltimore County County Office Building Towson 4, Maryland

> RE: Petition for Special Exception Petition for Special Exception for the Operation and Maintenance of 115 KV Electric Transmission Line Fairmount Avenue and abandoned R/W of the Md. & Pa. Railroad The Baltimore Gas & Electric Co., Petitioner - No. 5739-X

MAR 1 1, 64

121

Dear Mr. Rose:

Please note an Appeal on behalf of the Philitioner, The Baltimore Gas and Electric Company, to such part of your Order of March 10, 1984 in the above entitled case as purports to permit the construction of portions of the electric transmission line only if placed in underground eables or conduits.

JHC/mad

Fidelitu Onion Skin

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: We, Baltimore Gas & Electric Co. nnd/or condemnor legal owners. of the property situate in Balti County and which is described in the description and plat attached hereto and made a part heapful, \$4.34.

bereby petition (KMMATARE manage statement in the description and plat attached hereto and made a part heapful, \$4.34. 0LD #9

#11-6 " X" 114/62

Se c Attached Demoription

and (2) for a Special Exception under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for operation and maintenance of lattice... steel pole electric transmission line,

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising. posting, etc., upon fiting 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

BALTIMORE GAS & ELECTRIC CO.
By: house & Martin Co.
Vica President Contract purchaser

Condemnor and/or Legal Owner Address Lexington Building

Baltimore 2, Maryland

Benjamin Chambers

Texhngton Builting, Baltimore 2, Md.

Texture of Cook

See seller artic 1/7/63 James H. Cook

Address 303 W. Chesapeake Ave., Towson 4, Md.

All Photographics Street Street, Left, 19th, Left, 19th, 1

196.62, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through 4 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 /)----, 196.3., at 10:00 o'clock County, on the 10th day of January

notify wm adelson

Commissioner of Baltimore County. unto

5 /19.

measured at right angles in a northwesterly direction from the center line of preposed conductors 8 678 122 107 8 -111.78 to a point in the veterameant line of the abandoned right of way of the karyland and Pennsylvania failread Coreuny, sain ordina being also in the 9th or 16.10 12 11 1200, and recorded as aforesaid in liber W.J.R. 2563; for 1610 hid has enonyeged by 110ets 1. Larkins and Piennes W. Larkins, his site, to loosely boomenic and Fauline Schools, the wide to the site of the 100 to 100 to

parallel to and 33 feet distant measured at right angles in a northeasteryl direction from the context line of the northermost engaging interests. The measurement of the northermost engaging interests and the second of the sec

The above described Electrical Trunsmission Line is about in red on white prints of Patitionar's Exhibit "A". The state of the state of the connecting the new Transmission Line to the exhibit of the shown outlined in yellow on white prints of Patitionar's Exhibit "A".

The bearings in the above descriptions are referred to the True Meridian as established by the Baltimore County Metropolitan District.

IN THE MATTER OF BALTIMORE GAS AND ELECTRIC COMPANY :

For a Special Exception To The Zoning Commissioner of Baltimore County

RALTIMORE CAS AND ELECTRIC COMPANY hereby petitions eral Assembly of Maryland of 1943, for a certain permit and use, as provided under said Regulations and Act, as follows:

A Special Exception to use land (and improvements now or to be crected thereon), as hereinafter described, for the construction, operation ance of the lattice steel pole electric transmission line or extending generally from Baltimore Gas and Electric Company's East Towson Substation property situate near Fairmount Avenue and the abandoned right of way of the Maryland and Peansylvania Railroad, Towson, Maryland, along or adjacent to the said abandoned right of way of the Maryland and Pennsylvania Railroad right of way easterly for a distance of approximately five miles to the existing electric transmission tower lines of the Baltimore Gas and Electric Company situate adjacent to said abandoned railroad right of way at Summerfield, Baltimore County, Maryland, and traversing all those properties shown on Petitioner's Exhibit A comprising six sheets and entitled Plan Showing 115 kw Transmission Line Between East Towson Substation and Existing Tower Lines at Summerfield," attached hereto and made part hereof.

The center line of said proposed 115 kw transmission line and the ares of land to be used to connect said 115 kw transmission line to existing

All that proposed Electrical Trusmission Line right of may warying in width from 60 feet to 66 feet bying and county State of Yaryland, the center line of said proposed Electrical Transmission line to be conformation and right of way being described as follows:

PETITION FOR SPECIAL EXCEPTION

OF BALTIMORE COUNTY APS

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#5739-X

BEGINNO for the same in the center line of a proposed Electrical Transmission Line, said point of beginning being the same in the center line of a proposed Electrical Transmission Line, said point of beginning being the same state of the same in the center line of the same same and some same same and some said southernoof property line from the themes 3 ps 971 J. 277, thence running parallel to and 13 feet distant assured at legit angle in a northeasterly direction from the center line of the slandoned right of feet vide, 8 56 °00' S = 600' Nore or less, thence still \$ 566 °00' S = 500' Nore or less, thence at lill \$ 566 °00' S = 500' S = 600' Nore or less, thence at lill \$ 566 °00' S = 500' Nore or less, thence at lill \$ 566 °00' S = 500' Nore or less, thence is \$ 500' Nore or less, thence at lill \$ 566 °00' S = 500' Nore or less, thence is \$ 500' Nore or less, thence is \$ 500' Nore or less, thence at lill \$ 500' Nore or less, thence is \$ 500' Nore or less, thence running parallel to and \$ 50' Nore or less thence running parallel to and \$ 50' Nore or less, thence running and abandoned right of way, thence log-ring said abandoned right of way, thence running and abandoned right of way, thence running and abandoned right of way, thence log-ring said abandoned right of way, thence log-ring said abandoned right of way, the running with and binding on the southwesternoot tide of and abandoned right of way, the running with and binding on the sout

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17.3.1; "n 690 in 'in' 5 - 103.72; ann n 90 40 15" 5 - 117.3.1; "the last described line creasing Oakleigh Read at a point distant 150" zone or less measured along the center line of cald Read from its intersection with the center line of Cerswell Bridge Read, theree N 600 59" E. 227.20', N 550 11' 08" B - 273.72', N 500 16' E - 699.40',

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ore Transmission line to the existing Fransmission lines is follows:

3 follows:

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November 11, 1962 #5739X

Description for Zening a proposed Theorical Transmission Line From Beltimore Gas and Llectric Company's Mast Youron Substation to Alltimore Cas and Electric Company's Asst Youron Substation to Alltimore Cas and Electric Company's anisting Electrical Transmission Lines at Surjectical

All this proposed the tried Transmission like rich-on-my variety in width from 60 for to 66 feet lying and being in the 9th and lith Zeetlen Electrice of Sattheror County, Satte of Engling, the center line of a promosed Electrical Transmission line to be constructed in ead right-of-way being described as follows:

Electrical Transition like to be constructed in and right-of-way being described as follows:

September for the same in the center line of a proposed Electrical Transmission line, and point of beginnin their in the content of the content of Puttiness of the Content of Puttiness of Puttiness

conter line of Green'sli Bridge Bridge, themes H dos 59 H = 1297,309 H 590 H1 20 H = 1297,109 H 590 H1 20 H2 489,409 H5 H2 18 H 500 H5 H 500 H2 H 500 H5 H 5

These runs, of the and binding on the outlines of an area to be used for connecting the new Transmission Line to the catting, Termonation Line as follows:

1507 Intermediate Type 19 - 137 more of none to intermediate the all 190 GHZ =

1507 Intermediate Type 19 - 137 more of none to intermediate this section of the following terms of the terms of the section of the following terms of the

The above described Electrical Transmission Line is shown in rad on white prints of Patitioner's Exhibit W.". The above described area to be used for commenting the new Transmission Lines to the existing Transmission Linesis shown outlined in yellow white prints of Patitioner's Exhibit way.

The bearings in the above descriptions are referred to the True Maridian as established by the Baltimore County Matropolition District.

James W. Pearce, Engineer



Benjann Chambers
1707 Gas at Meetric Bullding
Baltimore - 1, Maryland
539-8000 Chambers

Attorneys for Petitioner



BALTINORE GAS AND ELECTRIC COMPANY J.M. Trice

IN THE COURT OF APPEALS OF MARYLAND No. 264

September Term, 1969

ALBERT L. DEEN, Jr., et al.

NATIVINGRE CAS AND ELECTRIC COMPANY

Precentt, C.J. Humand Hermay Hasbury Oppenheimer,

Opinion by Marbury, J.

F1134: November 11, 1965

for the overhead lines along the Company's entire right-of-way except that portion which was from Let 36 in Cremevil Moights to the East Touses substation, excluding the persions thereof which were somed for manufacturing. From the Beard's decision the Company filed an appeal to the directle Court for Blilisers County from that portion of the order which demind the special exception for above ground construction in that area where it ordered the lines to be placed underground, and a crees appeal was filed by the pretentants from no much of that order which allowed any of the sizes to be struct above ground.

In the Circuit Court, Judge Hemeniae fully reviewed the entire record, together with semerate filled on behind of the respective parties and heard argument of council on behinded. He held that the finding of facts by the Smard did not support its uncalculons of ise in regard to that portion of its destion which required the tenenatation lines to be placed underground, and as a result he ordered that the case be remaided to the Sound for the parage of an appropriate order granting the special acception for the empty calculation of the power line upon dedocatedral steal poles for the outer longth of the route covered by the Company's position. The processment them noted this appeal.

The issue involved in this case is whether or not the Baltimore Cas and Electric Company, appelles, will be allowed to place tra 115,000 volt (115-by) transmission line above ground on dedocahedral steel seles throughout its right-of-may from Summerfield to the East Towens substation in Bultimore Soundy. The right-of-way runs for a distance of 5.1 miles and is, with a few exceptions, that property formerly used by the Haryland and Pennsylvania Railroad. Under the seming ordinances of Bultimore County the Company was required to apply for a special exception in order to combined its high voltage transmission lines shows around. He sensial execution was needed to place such lines below the surface of the ground. Pursuent to the Bultimore County Zoning Regulations, the Company filed a potition for a special exception with the Gunty Soming Commissioner in Hovember 1962 asking for a special exception to permit construction of the lines above ground along the entire right-of-way. The specilants berein, and the protestants before the Zonine Commissioner, are owners of property along the five mile right-ofway. These property owners admit that the new lime is second in order to adequately supply the electric power mends of this part of Baltimore County. They maintain that the temperature lines should be placed underground because the proposed above ground atpustures would desposes property values incomes as

First to be considered on this appeal is whether or not the Circuit Court was correct in reversing that parties of the Moard's order which required the transmission lines to be placed inderground from Let 36 in Groundl Heights to the Mant Townson substation, except in numirecturing senses. In regard to that portion of the Meard's order, Judge Householm held blast the findings of fact did not uppert its sensitations and them the decision was arbitrary and exprisions in a legal senses,

the decision was arbitrary and eapylatous in a legal sense, relying upon footagety; Qr. v. Norlands Club, 802 Md. 979, 96 A. 36 361. In fairness to the lower seart, it should be pointed out that clarity and internal commissionary were not completened attributes of the Hoard's written equinon. However, a reading of that entire opinion makes it apparent to us that the Heard adopted for its findings of fast the testiamey of Ap. Gerrells, Director of Flanning for Hallandro County, which was appeared by that or a real estate expert. Their continues clearly supported the Hoard's conclusion of law and for this reason much a conclusion.

sion was not arbitrary or exprisions.

Although Nr. Survelle' toolinesy was not appointeally
adopted by the Board, we fool that the Circuit Goort, in its
review of the docinion of bits quantitative body, should
have someowind itself with the quanties considered in Rend IRelight, 239 No. 184, 183, 252 A. 26 509, and not with the
quantum of whother the reasons not one in the opinion.

they would be unsightly and also would be inisical to the health and safety of those sho live nearly or who would travel on the highways over which the lines would be attung. On the other hand, the Campany does not want to be required to construct the lines underground because underground sensitive line is a great deal more suggestive and in turn would reflected in later concentration.

The right-of-way over which the Company proposed to place the transmission lines can be conveniently divided into tures sections. The first section is from the Last Tousan substation easterly to Lot 34, Section 2 in the Crossell Heights development. This section is within the Metropolitan District of Baltimore County, which is a term used to describe the area of the county serviced by sewer and mater. In order for a public utility to obtain a special exception within the Metropolitica District, the Coming Regulations require that Section 508, and the additional provisions of Section 411, must be met. Within this first section the right-of-way runs for a distance of 5,385.6 feet and the proposed high tension lines would space Goucher Boulevard and Jappe Read, which are heavily traveled highways; would pass through a heavily built-up residential section of Towners and also through areas which are somed M.L. for light manufacturing. The second segment of this right-ofway for which a special exception was requested runs from Lot 34 in Oromsell Heights easterly and then northerly to the easternmost terminus of the Metropolitan District lime. It is 6,177.6 feet in length; would cross over both the Leon Raven Boulevard

and the Baltimore County Beltway; and would pass through a suburben area. The emline length of this second segment like within the Retropolitan 'intrict. The third section, over which the proposed transmission lines would run, acteed from the Retropolitan District line methody to Summerfield, a distance of 15,566.8 feet. At Summerfield the Company's plan is for the transmission line to common with a ring line, which is sessebalt of an electric power beltway encireling Baltimore City sees to fifteen miles in reduce from the company of the City, a part of which is in Baltimore County. This last segment of the proposed line runs through as sees which is presently rural.

After a hearing, the Eoning Commissions subherised the special exception the Company requested for the area custide the Metropolitan District, 1,2,, that area described as section three shows. Within the Metropolitan District the Commissionary ordered that the transmission lines be placed undergracing "essluding that portion of the right-of-say in Tenson, a bject to the Radevelopment and Rehabilitation Commission (appreximately 370 feet) and excluding the Shoutheaturing Eons, e e e."

The Coupany appealed so much of the Sening Commissioner's decision as required it to place any of the transmission lines underground to the County Board or Appeals of Bultimore County, and pursuant to Section 501.6 of the Jessing Regulations a hearing was held do zero. After the hearing, which luned aim days and involved a brancowing of Bhi pages and meetly 100 eshibits, the Board concluded that a aportal exception should be greated

we found the test to be: "whether a reasoning mind could reasonably have reached, after a fair consideration of the entire record, the consultant that the Council [Beard] did, or, in other words, was its sation clearly erroseous and therefore not fairly debatable." Thus, the sours should have looked at all the fasts to see if the conslusion reached by the Beard was justified.

dection \$11.3 or the Emitanore County Foring Regulations specifically sets out the serom (matters which are proper for the Beard's consideration in determining whether transmission lines carrying more than 35,000 velts shall be placed undeeppromed. Section \$11.3 a (7) states as one of those factors to be considered: "Any other matter or thing deemed by his [Jossian Consistence] or then [Board] to be material in connection with the public health, safety or general welfare." The Planning Commission report, introduced into evidence by the tentimenty of Nr. Survella, used the following language in reference to that part of the right-of-may which the Emark undersymment:

"A 100 feet netheak in sought between any more realcential imprevenent in new developments and the edge of a high ved kept brumandation like right of may. Although architumy, the extra extense absumes to became my solvens effect of the power line by extra distance. Beneficially, and the desire and the contract of the contract of the solds of most lend as the Secundary of the contract of the contract to the solds and in the Secundary of the contract to the contract of the contract of the contract of the contract to the solds of the contract of the contract threatway, that in order beet to comply with the beacht, antity or present sufface that this power of the conmination lines underly from a patie wave or less on the bysoling it. Comment of the contract of the trans-

As to the relationship between safety and the 100 Feet setback requirement, Ar. Gavrelia testified that the 100 feet some was established to insure against the possibility of home damage in the event one of the poles carrying high tension wires should fall. The proposed poles will vary in height from 60 to 50 feet and will have crossared extending 11 feet. The unsentreverted evidence before the Board indicated that high voltage lines have, on occasion, some down in other parts of the country. when the lines fall they reasin energised for a fraction of a second after they strike the ground and could thus start a fire if they should come in contact with a combustible substance. In addition, it was undisputed that lines similar to the present ones have sugged in slose proximity to the ground as the result of an accumulation of ice, most or slept, or as the results of a defective tower. Under such discumstances the circuit breakers would not work, since the line would not be grounded, and would thus present a hazard to any person coming in contact theresish Given the height of the proposed poles, and the chance that falling lines could start a fire which might approad to house, we think that a reasoning mind souls have found a substantial connection between the 100 feet sesback requirement and the health, safety and welfare of the people living in close presinity to the high tension wires. The Board was duty bound to consider this factor of safety is determining whether to great a special exception. In addition to his testimony as to safety,

Mr. Covrelis testified that the presence of above ground high tension wires has a tendency to decrease property values to residential areas. As a planning expert Mr. Cavrelia cained that the 100 feet setback requirement minimized the deflation offeet which above ground high tension wires her on land values. Such economic consequences were preserly considered by the Board currents to Section 411. t a (6). Besides Mr. Garrella, other witnesses, including Hugh E. delston, a real estate emert. tentified before the Board that in their opinion high tension wires in this area would adversely affect property values. To rebut this, the Company produced Mr. Muses and Mr. Mainsalter, both assers real estate appreleers, who testified that in their opinions overhead lines do not have an adverse effect on presents values. Bounded of the evidence as to safety, soupled with the someluniam which reasonable sen could have gleaned from the conflicting ratimony as to the effect of high tension wires on mourhy accepty values, we conclude that under the est used in Heitzer, bec Board was not clearly erremous when, pursuant to the authority given the Board under Section 411.1, it ordered these high tennies wires underground. For that reason this nortice of the Beard's findings we consider to be supported by empotent, natural and substantial evidence upon the whole record, and, therefore,

was not arbitrary and seprisious.

The protestants part contend that within the mannifacturing somes lying between Lot 34, Crossell Meights and the Kast Towson substation, the Board should have ordered the lines to be placed underground. Why the Board uld not so order becomes apparent from the clear language of Section \$11.3:

Electric light and power branchiseler lines carrying more than \$5,000 volts shall be governed by the following principles, standards, rules, senditions and sareguards (in addition to the aforegoing):

a. For the purposes of the control of the location and construction of such electric light and power transmission lines, there is hereby sweated an additional some which shall conform to the present or future bound of the Netropolitan District of Baltimore County and be

"L. the exercise of such power, the Koning Constissioner and the Dounty Board of Appeals, upon appeal shall consider and be guided by the following factors and standards: (Mechasis supplied.)

Then follows the list of the seven considerations previously referred to in EXECUTED STREET, this coinies.

From the above language it would seem that the Beard was given no power to order a public utility to place its high tension wires underground within that part of the Hetropolitee District which is somed for manufacturing. To circumvent this mertion of the Koming Benulations, appollures wite Section 255.1 of those regulations dealing with menufacturing comes, raish reads in sertinest sert as follows:

12.

8. Y

tion gives a logical meaning to all of the cited sections when construed together and we therefore adopt it. Since utility polan are not in a true some manufacturing structures, we conclude the Board was correct in not ordering underground high voltage transmission lines whichpase through manufacturing some within the Crossell Meights to East Touson substation portion of the Company's right-of-way.

He now consider that portion of the Company's rightof-way which lies within the Matropolitan Zone and which beth the Board and the Circuit Court agreed should be constructed above ground, 1. e., from Crossell Heights to the eastermoos terminus of the Metropolitan line. The Board, appellants contend, "ignored the importance of Section 411.3 a (1)" which lists for committeetion in the grant of a special exception for above ground high tension wires 'the crossing of much traveled highways or etreets.' within this portion of the Company's right-of-way this factor is said to be of significance since the line will eross "two of the most heavily traveled highways or streets in Baltimore Crinty (Bultimers County Bultway and Look Raven Boulevard). The appellents argue that the failure of the Board to give effect to this factor makes the Board's grant of a special emorption arbitrary and capricious and that its affirmance, by the Circuit Sourt on appeal, constituted reversible error.

In regard to this consideration the Board stated as its finding of fact:

"M. L. Zone - Manufacturing, Light

whenever an M.L. Zone abuts or lies aurons the street from a residential some *** the use, haight, and area regulations applicable to any part of the M.L. Issue shich is within 100 feet of said residential some *** shall be those listed in Sections** **, for these regulations. *** Section 201 h of the Zoning Begulations states:

10.

Proximity of Structures to Residential Zenes - No building or other structure shall be element than 185 feet at any point to the nearest boundary line of a residential

Appellants' position is that these recitous read together impose a 100 to 125 feet (depending on how one intermeds the statute) buffer some between residential and manufacturing areas in which no public utility noise may be constructed because such noise fit within the affinition of "structure." Appellants assert that these regulations as applied to the instant case aveslude above ground construction in the manufacturing somes of the Crommell Heights to Towson substation portion of the right-of-way because in this area there is never the sussessely requisite 100 or 125 feet buffer. By construing the regulations in this marmer the appellants lose might of the fast that the remiletions referred to ware designed to protect the adlessed residentiel areas from being in alone precisity to samufacturing type buildings, or, in other words, uses which are normally negotited only in wesufacturing somes of the Matropolitan Distriot. To easily these swas manifestons to the months turing somes to structures such as utility peles which are permitted men, by amonial expension, in residential areas expens to sensibly supported, as will be demonstrated below.

115-kv overhead line is a permitted use, by special exception. in all residential somes traversed by the line on route to and through a manufacturing some. Obviously, as the line approaches the manufacturing some, the engineering design of the line might well require that a pole be erected on residentially moned land within 10 or 15 feet of an adjacent manufacturing zone boundary. There can be no logical justification for requiring the next pole. which would be in the manufacturing some, to be set back a specific distance from the adjacent residential some from which and through which the poles have been placed. Such an anomalous result could not have been intended by the legislative body which specifically withheld from the County Board of Appeals the power to order that transmission lines through manufacturing districts be placed inderground. Since both Sections 255.1 and 243.4 appear inder the title "Ramifacturing," we feel justified in avoiding the anomaly which arises from the appollants' construction by finding that the legislative intent was to require that manufacturing buildings or structures be set back 100 or 185 feet for the benefit of adjacent residential property camera. True, Section 243.4 should be construed in a situation such as that which presents itself in the instant case as meaning: " ose to [manufacturing] building or other [memufacturing]

structure shall be closer than 185 feet at any point to the

nearest boundary line of a residential some." Such a commuteur-

It is admitted by the appellants that the promoses

13.

There is no serious problem involving the crossing of much traveled highways or streets with the exing of much traveled highways or streets sith the exospition of the scales highways at or

motion of the ordering of the scales highways at or

multiplication of the scales of the scales of the

multiplication of the scales of the scales of the scales that the scales that the scales of the sca if there were a breakdown of interruption as service would case a serious disruption of traffic on these highways while repairs were under may, as against the comparative case of repairing any possible breakdown of overhead lines in the same location.

Temlicit in the shoys quoted finding of fact was the conclusion that the relative chance of one of these poles, or of the wires strung on these, falling and injuring a traveler upon the highest was outweighed by the possibility of inservenience to the general miblic which wight be occasioned by the disruption necessitated in the renairing of underground lines.

The Board did not ignore the impertance of Section 411.3 a (1) but instead shoes to belence that provision against the equally relevant Section 411.3 & (7) (dealing with matters of public health, sefety or general welfare) when it considered the disruptive offect a broaddem of the underground veltage lime wight have on the flow of highest traffic. Become for the argument that the testimony indicated that the cabins would be a maximum of 16 to 18 feet inderground, instead of 26 feet, we conclude that there was ample evidence in the record to supper the Board's finding on this point and the conclusions drawn therefrom. This being the case, the lower court was correct in affirming the Moard's areat of a special exception for above

ground construction of high voltage lines throughout the Company's right-of-way lying between Crossell Heights and the easternment terminus of the Metropolitan line

TV

Lastly, appellants contend that the Board's decision that the line be constructed above ground from the Metropolisan District line to Summerfield was arbitrary and capricious. It will be recalled that this portion of the Company's right-of-way traverses un area which is rural and is not sepriced by either public sever or water facilities. Sections 502 and 411.1 of the Zoning Regulations apply to the grant of special exceptions in areas such as this which lie outside the Metropelitan District. Section 502.1 states that a special exception may be greated if the use requested will not 'be detrimental to the health, safety, or general welfare of the locality involved." Appellants assert that it was error for the Board to fall to consider the future effects which the high tension wires would have on the health, safety and general welfare of the locality 'which could be reasonably anticipated in the normal course of its development. This factor was without relevance in this case, because there was no evidence produced at the bearing which would show that the effect of high tension wires on the future health, eafety and welfare of this area would be in any respect different than its effect as any other mural area. Section 508.1 implies that the effect on health, safety or general welfers must be in seen sense unique or else a special exception could mover be greated in such

an area for the above ground location of high tension wires. The only evidence as to future conditions was testimony revealing the possibility of future residential development of this land but such a possibility alone does not come close to showing a future deleterious effect upon the public health, mafety or general welfare.

15.

The appellant additionally contends that it was arbitrery and capricious for the Board to disregard the serious impairment of the use of neighboring property which would result if the special exception is granted. Although not apscifically cited in appellant's brief, such a factor is proper for the Board's consideration ander feation 411.1 which states: "The use must be needed for the proper rendition of the public utility service and the location thereof shall not seriously impair the use of neighboring property." In the instant case it was uncontroverted that there is presently a meed for a new transmission line to the Towson area and that the proposed line would be less disrupting and less costly than a line constructed elsewhere, since it runs lurgely along property which was ence used as a railroad rightof-way. Moreover, the evidence shees, as found by Judge Hemshims in his review of the evidence before the Board, "that the proposed lime is of a more harmonious appearance than sould be hoped for from any other route, for the reason that, in large part, it lies below the ridge line to the south and is soreened from the view of properties lying to the north by trees." While it is true that the eppellants did produce an amount, Much S. Colston, who

cestified that the best use of this rural property would be for prestige type homes in the \$50,000 category in sere or helf sere lote, and that the proposed above ground power lines would impair such a use; there was no showing that other less pretentious residential uses could not be made of this property. Thun, the Board was not arbitrary and capricious in failing to find that there would be a serious impairment of the use of this land and we, therefore, have no difficulty in concluding that such part of the order of the lower court mustaining the authorisation of construction of the transmission line upon dedecahedral poles from the Metropolitan District line to Sugmerfield was justified.

In its brief and orel argument before this Court, the Company sought to raise the issue of whether certain provisions of the Coming Asgulations authorize evertocal construction through out that portion of its route ordered underground by the Beard, without the nacessity of a special exception therefor. We do not deem it necessary to deside this because the Company did not file a cross appeal from the lower court's great of a special exception for this area, and thus the question is not properly before us.

For the reasons stated such part of the order of the lower court as differe from the order of the Beard of Eaming appeals dated January 18, 1965, will be reversed and the order of the Board will be reinstated.

applicant that the provisions of Section 502 and 411.1 and 411.2 were fully sect. It will surface to say that there was a precise finding by the Board that such was the case and that testimony abundantly supports such finding. It is clear that there is an imminent, if not a presently existing, need for a new transmission line to the Towson area; that the proposed line would be less disrupting and less costly then a line constructed elsewhere; that the proposed line is of a more harmonious appearance than could be hoped for from any other route, for the rouson that, in large part, it lies below the ridge line to the south and is occused from the view of proporties lying to the north by trees. The Court has no difficulty in concluding, therefore, that such part of the Oder of the Sourd of Zoning Appeals as authorized construction of the transmission line upon dedecahedral poles from its conformat terminus to the Fistropolitan District line must be sustained.

The Line within the Metrocoline District

The transmission line lies within the Metropolitan District from a point on the division line of Lots 22 and 23 of Section #2 of "Coventry" to the western terminus of the line in Towson. Along its course in the Metropoliten District this line passes through property with the following seeing: "R-46"; "R-86"; "R-18"; "R-6"; "RA"; "MR", and "1170

I believe that it is fair to state that axiating Zoning Regulations releting to the subject whether high voltage transmission lines shall be placed undergran or overhead within the Metropolitan District are uncertain in their meaning, and will forever, in their present form, tend to promote confusion, uncertainty and litigation with respect to their application. The question whether a high voltage power line should be required to be placed underground in assessibility a political decision to be reasized by the legislative branch of graverus

A clear and certain approach to that adopted for the City of Beston: "No wires for the transmission of electricity at more than fire thousand volts alternat ing, or ten these and wolds direct, shall, after the thirtieth day of June, ninetees hundred and thirteen, he placed, maintained or operated in the City of Segton

ORDER OF JUNE 17, 1965 ANY RANGE IN PART AND HODIFTED 30 AS TO COMPUNE TO THE CHOSE OF THE COUNTY BOARD OF APPEALS OF BALFINGE COUNTY, OF JAMIARY 14, 1965, AND AS RODIFIED APPIDED. COSTS TO BE PAID ONE-HALF BY BACK SIDE.

except underground." (Co. 371 Mass. lots 1311). This is a direct, meaningfulaction, understood by alt. dan, this is not the Baltimore County you'd

Chief Judge Markury, appealing for the majority of a Court divided throat to two, in Kahl v. Cons. Gas. Elec., It. 6 "cover Co., 181 Md. 249, said at Dage 255:

> ** 6 * The Motropolitan colatrict of Beltimore County is, except for its different form of government, in all respects a city. In many places it is impossible to determine where the City of Rultipore ends, and where the District begins One of the great problems of all cities is to hear the streets tran of structures, such as poles and the accompanying with which interfers with their free use and passage. Baltimore City had that problem, and its solution was one of the benefits of the fire of 1904. It is by no means too early for Baltimore County to start to clear the streets of its constant-ly growing and developing Metropolitan District. The Zoning Regulations are a natural and accepted method of making such a beginning, and they appear in general to be a valid exercise of the police power.* (Italics supplied)

There is a distinct irony in the words of Judge Marbury that are underscored above, in the light of the language of the greatent Zening Regulations. Under existing Zenting Regulations a sower line identical to the subject would scen to be authorized without special exception in any some if "located on poles on or contiquous to miblic highways" (Sec. 200.11b).

It attitues this Court as curious. If not becally unreasteable, that orwer to require underground lines through grivete property should be granted but such power denied when the line is placed along highways where they are vulnerable to damage from moving vehicles, with all the potential dangers stemming therefro But it will be assumed here that the provisions of Section 411.3 limit by inference such apparent authorisation of Section 200.11.

tion 411 in its entirety reads as folio

"Section 411-FUBLIC UTILITY USES

For public utility uses permitted only by Special Exception difficien to the provisions of Section 502, the following in addition to the provisi regulations shall apply:

411.1—The use must be seeded for the proper readition of the public utility service and the location thereof shall not seriously impair the use of neighboring property. "

mr. Rose



The Baltimore Gas and Electric Company filed its Petition for a Special Exception to construct a 115 EV overhead electric transmission line from a noin on the existing "ring line" on the east to Towson Sub-Station on the west. The proposed line in large part follows the line of the abandoned right of way of the Spryland and Pennsylvania Railroad.

The line leaves the railroad right of way on: (1) the easter the line to a point about 500' west of the Gian are Souds (2) the east and of the Dugan property to "M9" zoned property of Major Appliance Distributors; (3) the manufacturing zoned property of the Bendix Corporation, and (4) the area of Towson Estates. In (1) the line is located in close proximity to the Cun Founder Falls. In (2) it lies more closely to the Cronwell Bridge Read. In (3) it runs south into the manufacturing seeed property of the Bendix Corporation, thereby avoiding a division of property in another's ownership. In (4) the sing is move to a point further respoyed from residential properties in "Cromwell Moights".

The line from east to west is 26.928° in length, of which 15.364.8° to outside of the Metropolitan District, and 11,563.2' lies within the Metropolitan District. The Zoning Board granted the Special Exception (with a restriction reautring the use of dedecabedral poles in the place of lettice-work towers) for that part of the line running from the eastern terminal to a point lying within the Metropolitan District and shown on Petitioner's Exhibit A-1, as ending at Lot 34.

The evidence shows without substantial dispute, that this power line is needed and its construction would not seriously impair the use of neighboring property and the Board expressly se found. (See Board Opinion, page 4)

"411.2—in any residential zone in the Metropolitan District of Saltimore County, public utility buildings and structures, to the extent proof/cable, shall have an exterior appearance hermonious with tite general character of the turni treatment, landscaping elebborhood, including archite planting and/or fending, and plans therefor shall be ed by the Zoning Commissioner."

The re-julyaments of this sub-section also were declared by the Board to have been fully met by the applicant and again there is substantial evidence to support the finding. (See Board Crainion, page 4)

"411,3--Electric light and power transmission lines carrying more than 35,000 woits shall be governed by the following principles, standards, rules, conditions and se guards (in addition to the sloregoing):

a. For the curposes of the control of the location For the purposes of the control of the incition and construction of such electric light and power transmission lines, there is hereby created an additional zone which shall confirm to the present or faiture boundaries of the Metropolitan District neuropolitan Zone, within the said Mer Zone, but excluding Manufacturing Zone the Zoning Cosmissioner or the Zone Opposite. of Raltimore County and he knows as the Metropolitan Zone, within the said bistropalisan Zone, but seculting Manufecturing Zones therein, the Zoning Commissioner or the County Board of Appeals, upon appeal, shall have the power to require that such electric light and power transmission lines or purtiest thereof he located underground in ochies or conduits. In the carestines of such power, the Resing Commissioner and the County Source of Appeals, upon appeals, shall consider and he quisited by the vine factors and standards (1) The crossing of much traveled highways or

- (i) The creating of much travelled highways or structs;
 (2) The precisity of the line to any echoes; church, theater, chi, measure, take ground, now teach or other places where persons may compressin;
 (3) The precisitality of extension Englas over the eros and the general nearmont to any survey;
 (4) Jary the hunard or interference with fine-digiting or for the extension of the
- Any fire beauti or interference with fire-i equipment due to the location and constru
- of the proposed line;
 (S) The future conditions to be reasonably auticipus in each such area in the re (6) The said Commissioner or

The said Conmissioner or Board, on appeal, may also consider the comparative costs of unferground and overhead construction, including set only reason

Section 2 of the "Cromwell Heights" development. The Zoning Board's decision went on to require that the transmission line be carried underground from the said Lot 24, Eaction 2 of "Cromwell Heights", along the remaining distance of the line to the Towson Sub-Station, its westernmost terminus

Cross Asusais were taken by the Bultimore Gas and Electric Comment from their part of the decision that required the installation of the facility underground, and by aggrieved protestants against that part of the Order permitting the tenion line to be carried overhead at any point. Thus, both Assauls deal with the general subject of "overhead" versus "underground" transmission lines.

The Maltimore Gas and Electric Company contends that as to areas where the Zoning Countesioner authorized the construction of overhead facilities within the Metropolitan Edutrict there was no issue before the Board, because th protestants had filed no appeal from his decision. "but contestion is rejected and the case will be considered as before the Court for the whole course of the line

It is this Court's view that the lew governing such lines outside the Matropolitical District of Saltingra County differs so materially from the law governing such lines within its boundary that a separate disdivision is required in this Memorandum.

The Line Cutside the Metropolitas District

The Court is persuaded that the affirmative provisions of Section 411.3a expressly restricts the sower of the Board of Appeals to require undergree to that part of the County only as lies within the Metropolitan District. Otherwise stated, legislative power to compel such cor District has not been granted. The sole power of the Board in seasons uses so lines in that area is limited to a consideration of the conditions imposed by Section 502 in general and by Section 411.1 and 411.2 in particular

It would serve no useful purpose to detail the evidence that led the Board of Appeals to the conclusion that there was a antisfactory showing by the

. . .

able estimates of rights-of-way cost but also able estimates of rights-of--sky cost tot also ortificated damage to neighboring property, whether or not the owners of such property would be legally entilled to compensation for such damage; had the fact that the total cost to the applicant of placing a lines or any pertice thereof underground rouding or safet than locating it overhead, in any given case, shall not in itself be decomed sufficient

construction; Any other metter or thing deemed by him or them to be material in connection with the public health, safety or general welface." (7)

For the purpose of this decision the truly significant parts of sub-section "a" shows are that it applies in specific terms only to the "Metropolitan Zono" (identical to Metropolitan District) and that it excludes, also in specific terms, Manufacturing Zones therein.

In its course from the outer limit of the Metropolitan Zone to its western terminus, the line passes from residential to manufacturing somes three or four times. As pointed out, the Board is wholly without legal authority to require underground construction within such manufacturing sone.

This would at bost create a condition akin to a roller coaster effect, since a major part of the line passes through manufacturing zones along its course from Lot 34, Section 2 of "Gromwell Heights" and the Towsen Sub-Station.

The regulations specifically authorise the grant of a special exception for an overhead power line in all residential sones (8-40 - 200.15; 8-20 - 203.2; R-10 - 206.2; R-6 - 209.3, and RA 215.5). An authorized special exception within a some has been held presumptively to be appropriate for such somes and may be donied only when it appears that its grant would violets the previsions of Section 502. (Bee Carelet v. Beard of Assents, 204 Md. 397). By necessary analogy, M would appear that the provisions of Section 411 would impose upon this applicant only the added hurden of making a similar showing with respect to the requirements of its sub-sections

As heretofers exact in dealing with that part of the line lying without the Metropolitas: District, the Board found affirmatively that the requirements of

Section 502 and Section 111.1 and 411.2 had boun met. This Court finds that there is substantial evidence to support such finding.

-a then over to the specific construments of Section 411.3.

As to each subsection of Section 411.3, supra, the Board made the

following specific tindings:

- *(1) There is no serious problem involving the crossing of much traveled high-rays or streets with the exception of the crossing of the major highways at or near the intersection of the Bultway and Lock Rayon Souleyard, and we are convinced from testimos and Lock havon Soulevard, and we are convinced from resultment in this case that the safest and most practical way of crossing these well traveled high-rays would be overhead, smann other reasons, because it was testified that an underground installation crossing these highways would be as much as wronty-sight (28) feet under ground which if there were a bestdown or interruption. of service would cause a serious disruption of traffic on these highways while repairs were under way, as against the compar-ative case of repairing any possible breakdown of overhead lines
- the try, club, mission, fair ground, race track or other place where persons may congrugate is not a serious factor in the case nor is (2) ... sind that the groximity of the line to any school, church,
- (3) The probability of extensive flying over the area and its control nearment to any algorithms from all, of the control portions will be on the north side of a latrly steep hill-side well removed from any such places and the tops of the propased steel poles will be, in almost every instance, below the creat of the hill or ridge along which they will be placed along
- (4) we can find no serious evidence to support any the hazard (c) it can be a server whether a paper any are measure or interaction of the pro-lighting sufficient one to the hostion and construction of the proposed line, and as we have pointed out, in the area illowed to be overtically the proper time ownersharp to reacter and chear the roads would be less than if the roads were required to be alosed during the necessary expansion for underground repairs many feet below the surface of these roads.
- (5) The autor- conditions to be a suonably anticipated in the areas levelved should be of great interest to all citizens of Baltimore Bounty. Uncontradicted testiscopy indicates that the Gas and Electric Company served a population in this area of 28,000 in 1940, and a reasonable projection indicates a population of 180,000 by 1980. At the present time the Company's ring line all amound the Metropolitan area carries 115 kV, and it is estimated that the Toyson area will need at least 75,000 kilowatts during 1965, and that the present line has a capacity of only 71,000 at a pressure of 33 kg, and there is a definite more for a new 115 kg line to insure adequate service for this area in the

- 7 -

(6) As a factor (but not the only impelling one) in the case, the we have a sector toot not use our passing easy in the case, reasonable as authorized the company and instances and interesting. Witnessee for the Company and specifically, Thomass. W. Trion, Vice President for Operations, produced evidence that the soquired costs of the right-of-way was approximately 3375,000, and that the costs of construction and expectationers y 3/3 (see, last took test corture or constructions has another \$67.000 per mile coveraged and \$16.000 per mile coveraged and \$16.0000 per mile coveraged and \$16.0000 per mile coveraged and \$16.0000 per pair of comnections. This difference incost is apparently chiantee haship by the best system set devised for undergreamd installation which involves posting highly specialized copper conductors; included in a unique manner, inside of a stead size containing oil containing oil makes the manner of the containing of absorbing conductors undestuded on overhead from the office of absorbing of conductors undestuded on overhead from the properties of the containing ure in a number of other places testified to by verious witnesses (see politioner's exhibits 1, 2, 13, 15, 14, 16 and 17). witnesses (see positioner's exhibits), 2, 13, 15, 16, 16 and 17. The cost figures as presented by this winness escale indicates the title total cost of the entire approximate five mile route would be \$2,400,000 under,ground as equate lase than \$4.00,000 under,ground and exhibit lase than \$4.000,000 under,ground as equate lase than \$4.000,000 under to love ground, remains were disputed by teatimony on bindif of the protestants and were the subject of intensive organization of the protestants and sever the subject of intensive organization than \$1.000 under yound for the protestants to the alleged effect that the proportion between the cost of underspround vs. everhead lines would be roomwhat in accesses of 3 to 1 rather than \$5 to 1 lines would be somewhat in acrease of 3 to 1 rether than 5 to 1 hazis suggested by the Company's witnesses. In any event, it seems clear to the Seard that the total comparative ones of underground construction for the exited eithernois is a feature reasonably to be considered, particularly in view of the fact that utility to be considered, particularly in view of the fact that utility companies, in the tinal sentjus; must obtain their famile for such purposes from their subscribers, and that the additional cont would exemutally inflor all readents of the total area served by the construction of this particular power transmission affected by the construction of this particular power transmission. line. That the above is a serious factor be boundaryed in a case of this nature is shown by the policy of the iognificant which are so feelings of Bellinere County as stated in Section (1).3 (6) of the Zoning Regulations.

(7) The Board does not find any other matters, deemed to be material in convection with the public health, safety, or general wolfare, which are not at least reasonably debathle, although it is possible that the installation of a power line (in itself a secessity and even perhaps a necessary "ovil") could hardly be consi as an improvement to contiguous property except, of course, by way of providing the necessar, electric power required to operate the number of med in house and industries existing and expected in this area in the very near fature. The Cromwell Bridge Valley, wherein will the a position of this cause they are described by the wherein will lie a portion of this power line as de

Board, is an area of open spaces and large lott, and recent decisions of this Board have indicated that it will remain that way in line with the policy of the Baltimore County legislative archerities as ruisected in the Zoniny Maps. Zoning Reputations and recommendations of the Uspentment of Planning and Zoning.

Everyone of those specific findings is supported by substantia evidence and none tends to destroy the presumptive right of the applicant to construct an overhead line. In short, the Board's findings of fact do not support its conclusion of law. Its Order to compel underground construction is in conflict with its own factual determination and is thus arbitrary and capricious in a legal sunse. (Montgomery County v. Merlands Club, 202 Md. 279).

A correlat evaluation of the ground or reason given y the Board for its requirement that the line be placed underground leads inescepably to the conclusion that it was thus required because of the mere expression of the views of the representative of the Planning Department that it would be desirable to have a 100 foot setback between residential improvements and the ouge of a high voltage transmission line right-of-way. However desirable such standard might be, it is not a standard that the law has provided and, accordingly, cannot be utilized by the Board to require the construction underer

occordingly, that part of the Board's Order that requires the Petitioner to construct the line in cables or conduits below the ground is reversed and the case is remanded to the Board for the purpose of the passage of an appropriate Order that would authorize construction of the power line upon dedecahedral poles along its untire course from the ring line to the Towson Sub-Station.

ALBERT MENCHINE. Index

BALTIMORE GAS & ELECTRIC COMPANY, . IN THE CIRCUIT COURT G. MITCHELL AUSTIN. FOR W. GILES PARKER, WILLIAM S. BALDWIN. . BALTIMORE COUNTY WILLIAM S. BALDWIN, constituting the COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY AT LAW Misc. 7/465/3179

ORDER

The above entitled cause having come on for hearing on appeal, the Court having fully reviewed the record, together with the memoranda filed on behalf of the respective parties, councel for the parties having been fully heard, and the entire matter having been fully considered by the Court, it is CRDERED by the Circuit Court for Baltimore County this /74 day of June, 1965 that the Order of the County Board of Appeals granting the special exception petitioned for is hereby affirmed, however, such part of that Order of said County Board of Appeals as requires the petitioner "to place its transmission line underground from a point south and west of the Baltimore County Beltway and Loch Raven Boulevard, said point being, more or less, contiguous to lot 34, section 2 of the Cromwell Heights development, westerly to its terminus at the East Towson Substation" is reversed; and the case is remanded to the County Board of Appeals for the passage or an appropriate Order authorizing the granting of the special exception for the construction of the power line upon dodecahedral steel poles for the entire length of the route covered by the petition; for the reasons set forth in the Opinion heretofore filed by this Court.

AN. alket Marchine.

December 12, 1962 #5739-X MAPS #9-5E(.3 010 #9 #11-6 NOTICE OF HEARING Res Petition for Special Exception for Baltimore & Gas & Mary 10, 1961 PLACE ROOM 106 COUNTY OFFICE BUILDING, 111 W. Chesapeake Avenue,

ZONING COMMISSIONER

COOK. MUDD & HOWARD

March 11, 1964

Mr. John G. Rose Zoning Commissioner for Baltimore County County Office Building Towson 4. Maryland

> RE: Petition for Special Exception for the Operation and Maintenance of 115 KV Electric Tre-smission Line Fairmount Avenue and aban of the Md. & Pa. Railroadout Avenue and shandoned R/W The Baltimore Gas & Electric Co., Petitioner - No. 5739-X

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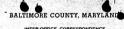
Dear Mr. Rose:

JAMES H COOR JOHN E MUDD

Please note an Appeal on behalf of the Petitioner, The Baltimore Gas and Electric Company, to such part of your Order of March 10, 1984 in the above-entitled case as purports to permit the construction of portions of the electric transmission line only if placed in underground cables or conduits.

Sames H. Cook

JHC/mad



#5739-X

INTER-OFFICE CORRESPONDENCE

TO Mr. John G. Rose, Zoning Commissioner Date December 27, 1962

FROM Mr. George E. Gavrelis, Deputy Director

SUBJECT #5739-X. Special Exception for Operation and Maintenance of Lattice Steel SUNDER_F373-3. Special Ecopylon [or Operation and Maintenance or Lattice Josen File Electric Transmission Line. Exeeming permaily rice mildiarre Gas a Electric Geopany's East Towns Shorthain property situate near Falmonth Arenon and or adjacent to the said shandown right-G-Tway of the Maryland and Fennsylvania Railroad right-G-Tway easterly for a distance of approximately five niles to the existing electric transmission tower lines of the Baltinero East & Electric Company situate adjacent to said abandoned railroad right-of-way at Summerfield, Baltimore County, Haryland. Being property of Baltimore Gas and Electric Company.

9th & 11th District

HEARING: Thursday, January 19 1963 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject potition for special exception for operation and maintalliance of Lattice Steel Pole Elect Transmission Line. It has the following advisory comments to make with respect pertinent planning factors:

- 1. The Haming shaff has been informed with region to the need for, and the route of an obserter tenential in this of the purposes of reinforming the Posens area. The Planning staff concurs with the proposed route which folly generally the abandoned has and Fe AR: right-of-way. Fortunetion of other probable route possibilities leads us to the conclusion that the onlyest route would have the least huped to existing or <u>return</u> exchanges.
- Although the Planning staff concers with the route it is not in concurrent with the politicar's concept of an overhead transmission line for the concept of the politicar's concept of an overhead transmission line for the property of the property by abstract and concept of the property by abstract property by abstract property by abstract property of the property o
- 3. As a guide for its recommendation, the Flanning staff has utilisted a standard witch its seek to implement in cases where were residential development as precoded adjacent to overhead translation lines. A 100 foot setback is pought between any new residential insurvement in new standard though a strict through a strict residential insurvement in the standard through the standard through the standard through the standard through a strict residential insurvement in the precision of the power line by exits distance. Examination of land use dast that all of the houses on the north side of fronk lend in the Ore Sabilivations do not confers to this standard nor do all of the Green the standard nor do all of the Green through the standard nor do not never the standard nor do not never the standard nor do not never through the standard nor do not never the standard nor do not never through the standard nor

ZONING COMMISSIONER

FOR

BALTIHORE COUNTY

Case No. 5379-X

NOTICE OF PARTIAL DISMISSAL

To the Zoning Commissioner for Baltimore Countys

Now comes Baltimore Gas and Electric Company, Petititioner, by

Benjamin Chambers and James H. Cock, its attorneys, and files Notice of

its voluntary dismissal of such portion of "Petition for Special Exception" heretofore filled in the above entitled case, File No. 5379-X, as pertains

to the land embodied in the following descriptions

BEDINIZED for the mass at a point where the center-line of the abandoned right of way of the Maryland and Pennaylvania Railroad Company intersects the conhormous property line of the property owned by William F. Bestone of Cob Hill Cost, the budge 752, feet, more or less, porth of Cob Hill Cost, 100 kg. 200, feet, owned the property less south of Ourpowder Falls, thence evenuting Compowder Falls is 1/2° 3.0° kg. 300; more or less, these is 1/2° 60° E = 450° to a point distant S 1/2° 60° W = 250° more Electric Company's existing Electrical Transmission line Right of Kay 13/2 feet wide. Thence running with and Whin-ing on the outlines of an area to be used for connecting these as follows:

Bedinking for the same at the end of the above described in 179 GeV E - 450° Line; thence H 72° 22° W - 33° more or least to intercept the abundence right of way of the Baryland and the same and the s



vide, theore running with and binding on said tide of said right of way, parallel to and 37 feet datam measured at right angles in a southwesterly direction from the center line of the southwesterly direction from the center line of the southwesterly direction from the center line of the southwesterly direction from the season of the way of the southwesterly direction from the southwesterly direction from the southwesterly direction from the southwesterly with and hinding on a southwesterly direction from the southwesterly direction from the center of ending from the being distant 28,33 feet measured along said center line in morthwesterly direction from the center of ending from the being distant 28,33 feet measured along said center line in morthwesterly direction from the center of ending from the northwesterly direction from the center of ending from the northwesterly direction from the center of ending from the northwesterly direction from the center of ending from the first from the center of end of the shandowd right of way of the Karyland and Pennsylvania fall-sod Geograpy, and point being also in the 9th order of the shandowd right of way of the Karyland and Pennsylvania fall-sod Geograpy and point being also in the 9th order of the shandowd right of way of the Karyland and Pennsylvania fall-sod Geograpy and point being also in the 9th order of the shandowd right of way of the Karyland and Pennsylvania fall-sod Way use conveyed by Albert J. Institute and Florence W. Latzina, sits wife, to deeps bounded and florence W. Latzina, sits wife, to deeps bounded on the 9th order of and florence W. Latzina, sits wife, to deeps bounded and florence W. Latzina, sits wife, to deeps bounded on the said and the said of the standard of the standard of the said the standard at right and the said t

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BALTIMORE GAS AND ELECTRIC COMPANY

The Truce

Attorneys for Petitioner

#5734-X

Petition For Special Exception

9th and 11th Districts

#11-c Futition for Special Exception for Operation and of Lattice Steel Pole Electric Transmission Line ZONTNG

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#5739 X

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OLD HY

1/4/62

THEFT THURSDAY, JANUARY 10, 1963 DATE & TDEL

Room 108 County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland PUBLIC HEARINGS

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

Concerning all test percel of land in the Winth and Eleventh Districts of Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. John G. Rose, Zoning Commissioner Date December 27, 1963

FROM Mr. George B. Gavrelis, Deputy Director

SUBJECT #5739-X. Potition for Special Exception for Operation and
Haintenance of Lattice Steel Pole Electric Transmission Li

Hearing: Thursday, January 10, 1963 (10:00 A.M.)

that in order best to comply with the health, safety or general welfare that that portion of the transmission line westerly from a point more or less at Lot Jul, Section 2 - Oroxwell Heights, be placed underground to the terminus in East Townen.

i. If the line is to be placed underground, the petitioner is advised to contact the Department of Public Works now in order that provision can be made for the Joppa Road - Goucher Soulevard crossing. Grading operations are now underway here.

PETITION FOR A SPECIAL EXCEPTION

9th & 11th DISTRICTS

ZOUING

Petition for Special Exception for Operation and Maintenace of 115 kw electric transmission lines

LOCATION

Extending generally from Beltimore Gas & Hactric Geograp's Eart Towson Substation property, situate wast Falmount Avenue and the abundence right of way of the Haryland and Fennsylvania Ballroad, to the vicinity of the abundoned Summerfield Ballroad Station

DATE & TIMES PUBLIC HEARINGS WEDNESDAY, JANUARY 15, 1964 at 10:00 A.M.

Rion 108, County Office Building, 111 W. Chesaperke Avenue, Toxson, Maryland

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

Concerning all that purcel of land in the Binth and Eleventh Districts of Baltimore County

Being the property of Baltimore Cas and Electric Company and/or condensor, as shown on plat plan filled with the Zeeing Separament.

BY CRUEN OF JOHN G. HOSE ZONING COMPUSSIONER OF BALTIMON'S COUNTY



CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was

day of ______January ______19.64 ... the first publication

1963

TOWSON, MD. December 27, 1963

THE JEFFERSONIAN

No. 21575

DATE 1/29/64

264.00 -

VALLEY 3-3		TOW	OF FIN. of Collection and Rec. COURT HOUSE SON 4, MARYLANI	ANCI	ND	No. 1532
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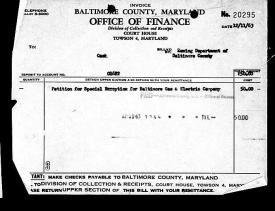
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TOWNON 4, MARYLAND

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BALTHORE COUNTY, MARCLAND

OFFICE OF FINANCE

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IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

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OFFICE OF

THE BALTIMORE COUNTIAN

CATONSVILLE, MD.

DUPLICATE

THE HERALD - ARGUS Catonsville, Md.

No. I Newburg Avenue

December 30.

19 63

THIS IS TO CERTIFY, that the annexed advertisement of John C. Rose, Zoning Commissioner of Baltimore County

was insorted in THE BALTIMORE COUNTIAN, a group of

three weekly newspapers published in Baltimore County, Maryland, once a week for One Week

successive weeks before day of 1963 , that is to say 30th December,

the same was inserted in the issues of

December 27, 1963.

THE BALTIMORE COUNTIAN By Paw J. Morgan Editorand Manager M.

Court of Appeals of Maryland

No. 264, September Term, 1965—Filed November 11, 1965

ALBERT L. DEEN, JR., ET AL.

VS.

BALTIMORE GAS AND ELECTRIC COMPANY Appeal from the Circuit Court for Baltimore County. W. Albert Menchine, Judge.

Argued by Rickard A. Reid (Royston, Mueller, Thomas d McLean on the brief), both of Towson, Maryland, for appel-

lants.
Amicus curiae brief filed by Baltimore County, Maryland,
E. Scott Moore, County Soliction, Walter R. Halle, Deputy County Solicitor and Harris Januar George, Assistant County Solicitor, all of Towson, Maryland on the brief. tor, all of Towson, Maryland on the brief.

Argued by James H. Cook, Towson, Maryland (P. Bleier and Paul S. Clerkson, both of Baltimere, Maryland, on the brief), for appeller.

Argued before PRESCOTT, C. J.; HAMMOND, HORNEY, MARBURY and OPPENHEIMER, JJ.

MARRIET and OPPINITIONISE, and anomalous, ORDINAL Planting in Retinent and Principles of the Conference State Transmises Line. Excite compare applied for quotal recipion to construct storing the state of the last particular formation and the state of the last particular formation and the state of the st

ner.

Order of June 17, 18th, reversed in part and modified so as to adverse in order of board of appeals.

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MARHUNI, J.—

The loses involved in this case of the control of the

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or commet on both sides. He held that the finding of facts by the

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it come and the disru, the affect a breakform of the un surround voltage line might have on the flow of highway traffe. Except for the argument that the testimony indicated that the cabbe would be a maximum of 10 to 18 feet oneservound, instead of 2 feet, we conclude that there was appear the Board's facility on the apport the Board's facility on this

support the Board's finding on this print and the coordinates drawn townfrom. This being the cuse, the lower court was correct in affirming the Board's grant of a special exception for above ground construction of high voltage lines are considered to the consumption of the consu

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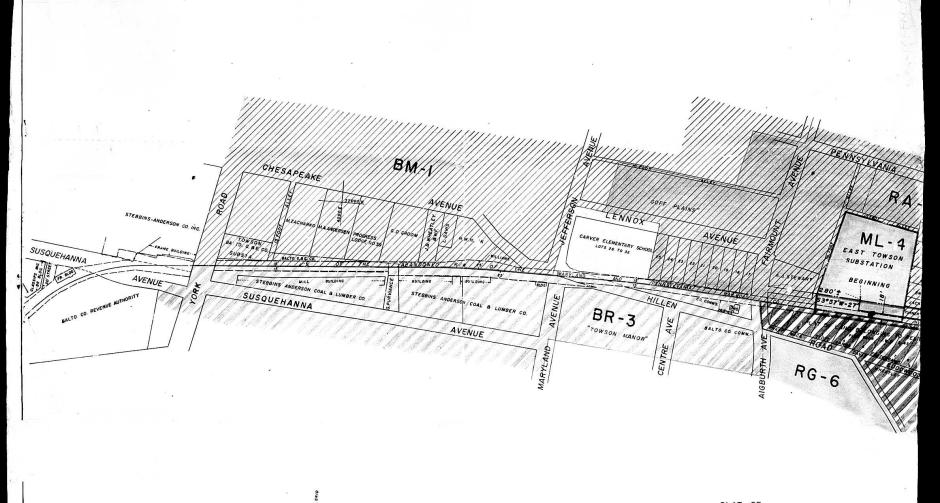
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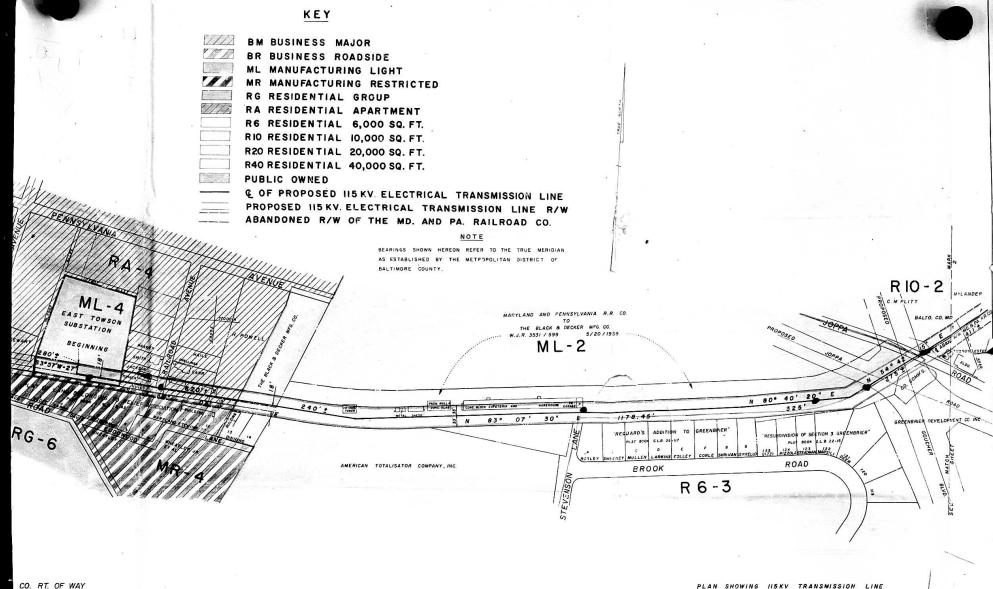
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PLAT OF

MARYLAND & PENNSYLVANIA RAILROAD CO. RT. OF WAY

9TH. DIST. - BALTO. CO. - MARYLAND.



35000

LAND.

PLAN SHOWING 115KV TRANSMISSION LINE BETWEEN EAST TOWSON SUBSTATION AND EXISTING TOWER LINES AT SUMMERFIELD

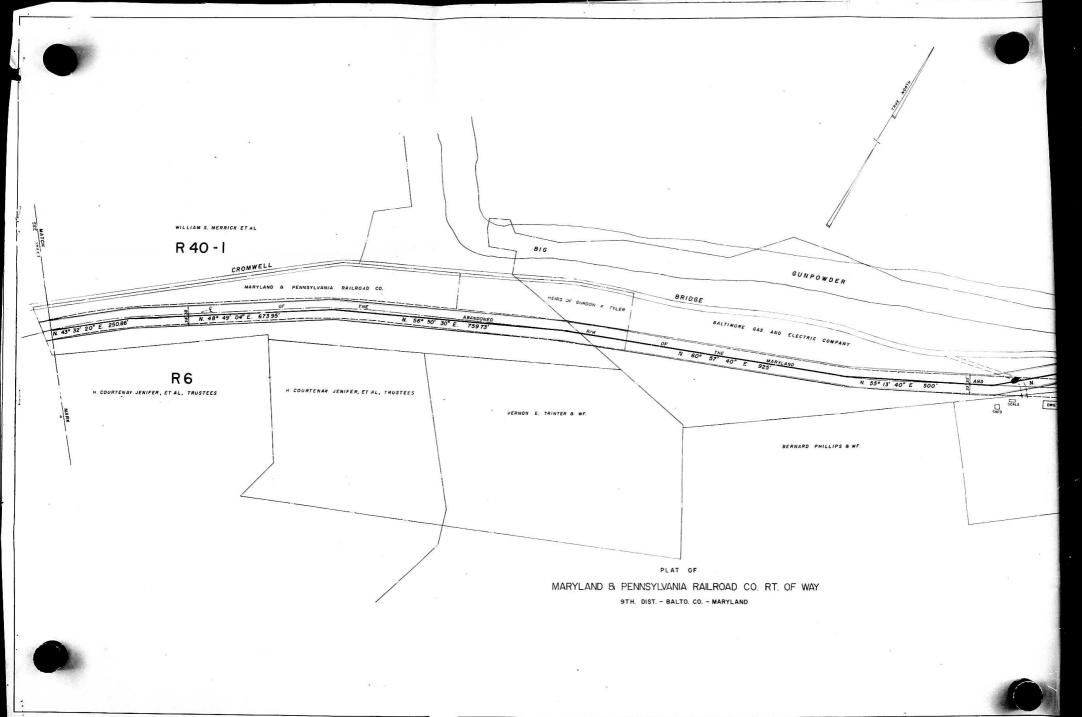
PETITIONERS EXHIBIT A-1

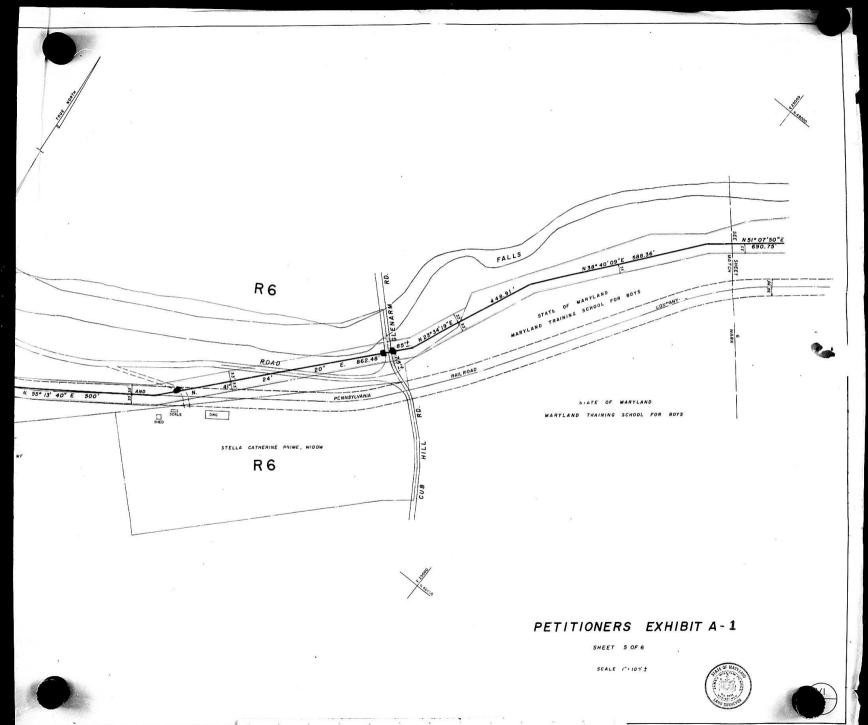
SHEET 1 OF 6

SCALE: 1" = 100':

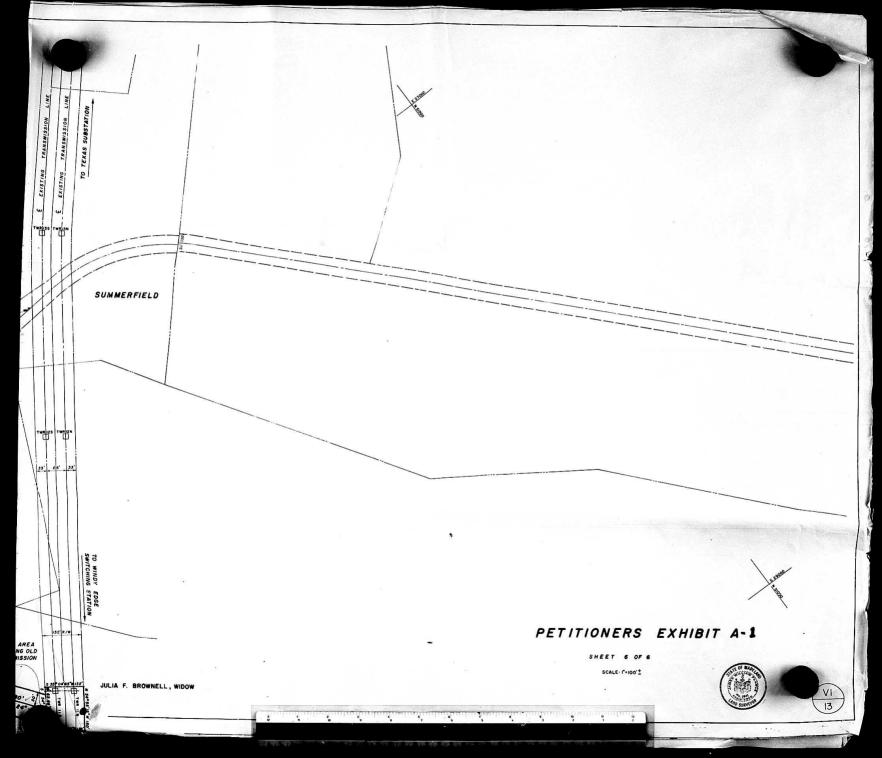




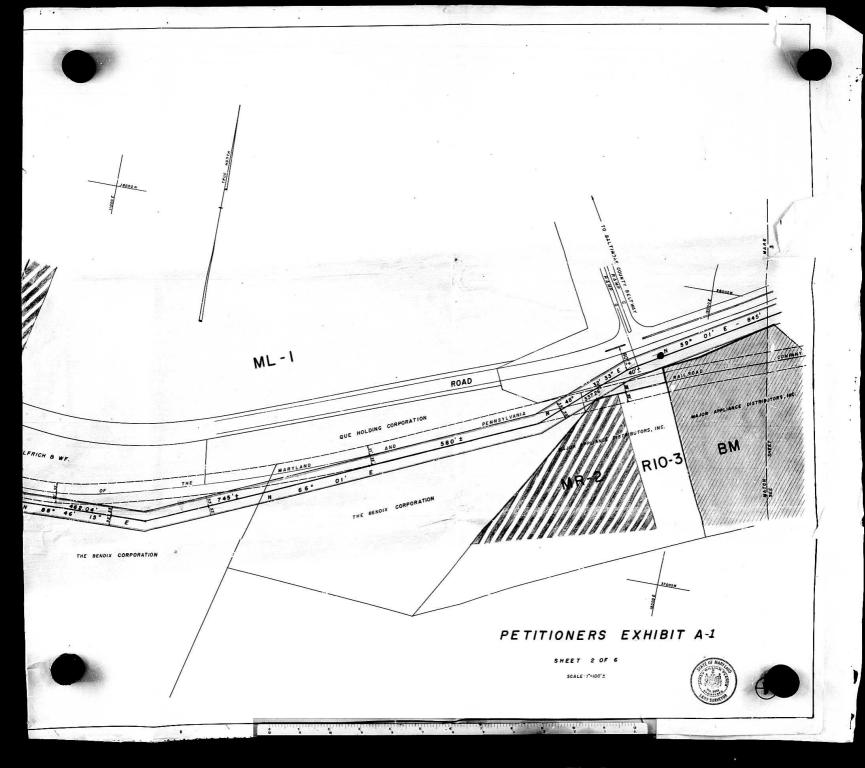




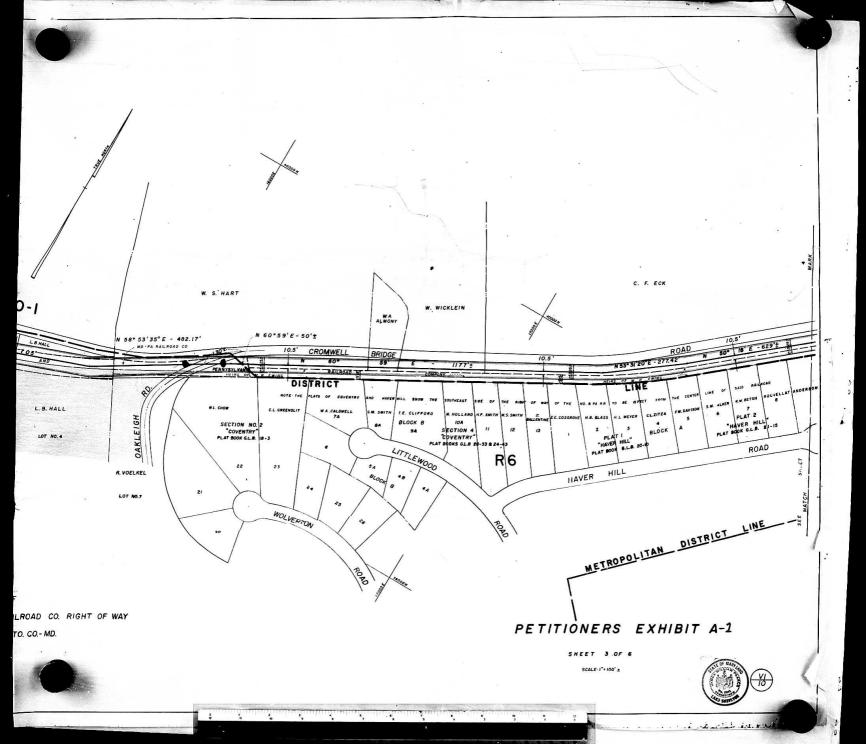
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CROMMELL BEAVERBANK C.M. PLITT SECTION ONE
"CROMMELL HEIGHTS"
PLAT BOOF C.L.R. 25 OF ESTATES. S. W. HELFRICH & WF. P6.3 THE BENDIX CORPORAT PLAT OF MARYLAND & PENNSYLVANIA RAILROAD CO. RT. OF WAY 9TH DISTRICT-BALTO. CO.-MD.



MARYLAND & PENNSYLVANIA RAILROAD CO. RIGHT OF WAY 9TH DISTRICT - BALTO. CO.- MD.



9TH DISTRICT - BALTO. CO.- MD.

