

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, Baltimore Gas & Electric Co., legal owner... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition the zoning commission of Baltimore County for the following reasons:

See attached description

and for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for, the enlargement of an existing public utility storage yard.

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 filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Baltimore Gas and Electric Company
By: John B. Howard Legal Owner
Vice President
Address: Gas and Electric Building
Baltimore, Maryland 21203
Telephone: 234-3669

Protestant's Attorney
Address: W. E. Colburn, Esquire
Attorneys
Gas and Electric Building
Baltimore, Maryland 21203
Telephone: 234-3669

WHEREAS: The Zoning Commissioner of Baltimore County, this 14th day of March, 1975, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 9th day of April, 1975, at 10:30 o'clock.

Zoning Commissioner of Baltimore County

(over)

June 20, 1975

John B. Howard, Esquire
Mercantile-Towson Building
409 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
N/S of Long Green Road, 4000' W
of Long Green Pike - 11th Election
District
Baltimore Gas & Electric Company -
Petitioner
NO. 75-242-X (Item No. 147)

Dear Mr. Howard:

Please be advised that a second appeal has been filed by John W. Hession, III, People's Counsel, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

/s/
S. ERIC DI NENNA
Zoning Commissioner

SED:eri

cc: W. E. Colburn, Esquire
Gas & Electric Building
Baltimore, Maryland 21203

Mr. Robert B. Carter
Long Green Road
Long Green, Maryland 21092

Edward L. Blanton, Jr., Esquire
Suite 105, Heaver Plaza
1301 York Road
Lutherville, Maryland 21093

PETITION FOR SPECIAL EXCEPTION
FOR THE ENLARGEMENT OF AN
EXISTING PUBLIC UTILITY STORAGE
YARD.
North side of Long Green Road
4000 feet West of Long Green
Pike, 11th District
BALTIMORE GAS & ELECTRIC COMPANY
Case No. 75-242-X

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

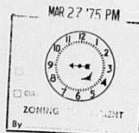
Charles E. Kountz, Jr.
CHARLES E. KOUNTZ, JR.
Deputy People's Counsel

John W. Hession, III
JOHN W. HESSIAN, III
People's Counsel
County Office Building
Towson, Maryland 21204
434-3211

I HEREBY CERTIFY that a copy of the foregoing Order was mailed this 26th day of March, 1975 to John B. Howard, Esquire, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorneys for Petitioner.

John W. Hession, III
JOHN W. HESSIAN, III

I WILL NOT ATTEND. JWH.



RE: BEFORE THE
DEPUTY ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 75-242-X (Item No. 147)

APPEAL FROM ORDER GRANTING SPECIAL EXCEPTION

On May 20, 1975, the Deputy Zoning Commissioner granted the Special Exception requested by the Petition of the Baltimore Gas & Electric Company. Please enter this Appeal from the Order granting that Special Exception on behalf of Edward L. Blanton, Jr., a citizen whose rights and interests have been prejudiced.



Edward L. Blanton, Jr.
Edward L. Blanton, Jr.
Suite 105 - Heaver Plaza
1301 York Road
Lutherville, Maryland 21093
321-7830

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 21623
DATE: June 13, 1975 ACCOUNT: 01-662
AMOUNT: \$30.00
DISTRIBUTION
WHITE - CASHIER
YELLOW - CUSTOMER
Edward L. Blanton, Jr., Esquire
Cost of Filing of an Appeal and Posting of Property on
Case No. 75-242-X (Item No. 147)
N/S of Long Green Road, 4000' W of Long Green Pike -
11th Election District -
Baltimore Gas & Electric Company - Petitioner

RE: BEFORE
DEPUTY ZONING COMMISSIONER
OF
BALTIMORE COUNTY
No. 75-242-X (Item No. 147)

AMENDED APPEAL FROM ORDER GRANTING SPECIAL EXCEPTION

On May 20, 1975, the Deputy Zoning Commissioner granted the Special Exception requested by the Petition of the Baltimore Gas & Electric Company. Please enter this Amended Appeal from the Order granting that Special Exception on behalf of Edward L. Blanton, Jr., 5025 Long Green Road, Glen Arm, Maryland 21057, a citizen whose rights and interests have been prejudiced thereby.



Edward L. Blanton, Jr.
Edward L. Blanton, Jr.
Suite 105 Heaver Plaza
1301 York Road
Lutherville, Maryland 21093
321-7830

Baltimore County, Maryland
Department of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

February 27, 1975

Bureau of Engineering
ELLSWORTH N. DIVER, P. E. CHIEF

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #147 (1974-1975)
Property Owner: Baltimore Gas & Electric Company
N/S of Long Green Rd., 4000' W. of Long Green Pike
Existing Zoning: RDP
Proposed Zoning: Special Exception for the enlargement of an existing public utility storage yard.
No. of Acres: 5.68 Acres District: 11th

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The comments supplied in connection with the Zoning Advisory Committee review of this site for Item #235 (1972-1973) remain valid and applicable to this Item #147 (1974-1975) and are referred to for your consideration.

Very truly yours,

Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EM:PM:rs

11-SE Key Sheet
64 NE 21 & 22 Pos. Sheets
NE 16 P Topo
53 Tex Map

John B. Howard, Esquire
Mercantile-Towson Building
409 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
N/S of Long Green Road, 4000' W
of Long Green Pike - 11th Election
District
Baltimore Gas & Electric Company -
Petitioner
NO. 75-242-X (Item No. 147)

Dear Mr. Howard:

Please be advised that an appeal has been filed by Edward L. Blanton, Jr., Esquire, acting on his own behalf, from the decision rendered by the Deputy Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

Very truly yours,

/s/
S. ERIC DI NENNA
Zoning Commissioner

SED:eri

cc: W. E. Colburn, Esquire
Gas & Electric Building
Baltimore, Maryland 21203

John W. Hession, III, Esquire
People's Counsel

Mr. Robert B. Carter
Long Green Road
Long Green, Maryland 21092

WILLIAM D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



February 21, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #147, Zoning Advisory Committee Meeting, January 21, 1975, are as follows:

Property Owner: Baltimore Gas and Electric Co.
Location: N/S of Long Green Road 4000' W of Long Green Pike
Existing Zoning: R.D.P.
Proposed Zoning: Special Exception for the enlargement of an existing public utility storage yard
No. of Acres: 5.68 acres
District: 11th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

This plan has been reviewed and there are no site-planning factors requiring comment.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planning Specialist II
Project and Development Planning

RE: PETITION FOR SPECIAL EXCEPTION
N/S of Long Green Road, 4000' W of
Long Green Pike - 11th Election District
Baltimore Gas & Electric Company -
Petitioner
NO. 75-242-X (Item No. 147)

BEFORE THE
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

This Petition represents a request for a Special Exception to permit the enlargement of an existing public utility storage yard, located on the north side of Long Green Road, 4000 feet west of Long Green Pike, in the Eleventh Election District of Baltimore County.

Testimony and evidence presented during the course of the hearing established that a public utility storage yard had existed adjacent to the subject property since 1910, having been originally established by the Susquehanna Power Company and later purchased by the Baltimore Gas and Electric Company. Present improvements consists of a dwelling converted to an office use and three substantial metal and block storage buildings. The site is also utilized to store telephone poles, storm drain pipes coated with tar, structural steel, reels of electrical cable, and other paraphernalia used in maintaining and repairing transmission towers and tower lines.

The existing utility yard, triangular in shape with a road frontage of approximately 178 feet and a depth at the apex of 721 feet, was granted a Special Exception (Case No. 68-271-X) on May 22, 1969. The site plan submitted with that request indicated the location of buildings, paved areas for employees and mobile equipment parking, storage area for material, and areas to be screened from adjoining residential property. Said Special Exception did not include an adjoining transmission right-of-way line. However, the aforementioned site plan did include the transmission line indicating paving, parking, and storage areas within the boundaries of the transmission right-of-way.

The utilization of the right-of-way for storage and the lack of screen planting generated a great deal of adverse testimony from area residents appearing in protest to the proposed expansion.

The property, which is the subject of this Petition, lies immediately adjacent to the east side of the transmission line and would, when added to the existing site, form a rectangular shape, as compared to the existing triangular shaped site, thus providing a more usable site and needed expansion area.

Testimony by the Petitioner's real estate expert was to the effect that a use of longstanding, as does presently exist, tends to be accepted after a period of time and, for this reason, does not have a detrimental effect on surrounding property values. It was also his opinion that the expanded site, if properly graded and screened with substantial evergreen trees, as proposed, would not have an adverse impact on the surrounding area. He pointed out that a substantial dwelling had recently been constructed on a parcel of land 300 to 400 feet from the site.

Three area residents appeared in protest to the expansion and/or the operation of the present site. Two residents live in dwellings on adjoining and nearby properties, and the third is the President of the Long Green Valley Improvement Association. Their complaints included the lighting of the property during the night hours; traffic of all types, including heavy truck traffic on the surrounding and narrow roads; the run-off of water from the site into a small stream, which was felt to include creosote; the take-off and landing of helicopters making routine and emergency checks of the transmission lines in the area; and the expansion of the existing utility yard to an area under the transmission lines, which was felt to be highly visible from surrounding properties.

The following observations were made or verified by the writer when the area was field inspected following the hearing. Environs of residential development exist within a short distance of the site. However, with the exception of three or four dwellings the land immediately surrounding the site

is being farmed at present. Long Green Road consists of a 10 foot right-of-way, with a paved section of approximately 20 feet. Even though it is proposed to be widened to a 60 foot right-of-way, it can best be described as a rural country road. Due to an embankment at the front of the site, the improvements, as viewed from a passing automobile, are less visible or evident at a point directly in front of the site than from some distance away.

Without reviewing the evidence in detail but based on all such evidence and testimony presented and the aforementioned field investigation, it is the opinion of the Deputy Zoning Commissioner that the expansion of the site, with certain restrictions and conditions, will meet the requirements of Section 502.1 and should be granted. The subject site, or that part that presently exists, is substantial, has existed for many years, and can be expected to remain for many more years. The expanded site will provide a more operable site, with an area to relocate and better organize existing materials, and will not, according to testimony, generate a great deal of additional traffic over and above that which presently exists.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 20th day of May, 1975, that the herein described parcel or area should be and the same is hereby granted a Special Exception for a public utility service center. Said granting shall be subject to the following restrictions:

1. Any lighting of the subject property shall be directed away from adjoining residential properties.
2. Any grading of the area shall be done in such a manner and to the extent possible to afford a natural barrier to off site view.
3. All parking, roadway, and storage areas shall be paved with bituminous concrete paving and shall be curbed and otherwise graded so as to comply with all County and State standards for drainage and possible off site pollution of nearby streams.

4. There shall be no new vehicular points of access to either the existing or expanded parcel, which is the subject of this Petition.
5. The screening, as indicated on the plan and/or adjacent to surrounding residential properties, shall consist of two rows of spruce and pine trees, a minimum of six feet high on ten foot staggered centers.

James E. Dillon
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE 21 May 1975
BY John P. [illegible]

ORDER RECEIVED FOR FILING

DATE 21 May 1975
BY John P. [illegible]

ORDER RECEIVED FOR FILING

DATE 21 May 1975
BY John P. [illegible]

ORDER RECEIVED FOR FILING

DATE 21 May 1975
BY John P. [illegible]

- 2 -

- 3 -

- 4 -

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH

JEFFERSON BUILDING
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

January 31, 1975

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item 147, Zoning Advisory Committee Meeting, January 21, 1975, are as follows:

Property Owner: Baltimore Gas & Electric Co.
Location: N/S of Long Green Rd. 4000' W of Long Green Pike.
Existing Zoning: RDP
Proposed Zoning: Special Exception for the enlargement of an existing public utility storage yard.
No. of Acres: 5.68 Acres
District: 11th

Comments: Since this is a special exception for a storage yard, no health hazard is anticipated.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204

DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E. Wm. T. MILLER
DIRECTOR DEPUTY TRAFFIC ENGINEER

March 3, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 147 - ZAC - January 21, 1975
Property Owner: Baltimore Gas & Electric Co.
Location: N/S of Long Green Rd. 4000' W of Long Green Pike.
Existing Zoning: RDP
Proposed Zoning: Special Exception for the enlargement of an existing public utility storage yard.
No. of Acres: 5.68 Acres
District: 11th

Dear Mr. DiNenna:

No major traffic problems are anticipated by the requested special exception for a public utility.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineering Assoc.

MSF/bza

Baltimore County Fire Department

J Austin Deitz
Chief



Towson, Maryland 21204
828-7310

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Baltimore Gas & Electric Co.

Location: N/S of Long Green Rd. 4000' W of Long Green Pike
Item No. #147 Zoning Agenda January 21, 1975

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead-end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
- () 6. Site plans are approved as drawn.
- (x) 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: *[Signature]*
Planning Group
Special Inspection Division

Noted and
Approved: *[Signature]*
Deputy Chief
Fire Prevention Bureau

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: January 27, 1975

Z.A.C. Meeting of: January 21, 1975

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Maryland 21204

Re: Item 147
Property Owner: Baltimore Gas & Electric Company
Location: N/S of Long Green Road, 4000' W. of Long Green Pike
Present Zoning: RDP
Proposed Zoning: Special Exception for the enlargement of an existing public utility storage yard.

District: 11th
No. Acres: 5.68 acres

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich,
Field Representative.

WNP/ml

H. EMILIE PARKS, President
EUGENE C. HERR, 1st Vice President
MRS. ROBERT L. BERRY

MARCUS M. BOYBARI
JOSEPH W. MCDONNELL
ALVIN LORECK

T. BAYARD WILLIAMS, JR.
RICHARD W. TRACY, V.M.D.
MRS. RICHARD A. BUELL

RE: PETITION FOR SPECIAL EXCEPTION
N/S of Long Green Road,
4000' W of Long Green Pike
Baltimore Gas & Electric
Company - Petitioner
Case No. 75-242-X (Item No. 147)
11th Election District

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

ORDER FOR APPEAL

Mr. Commissioner:

Please note an Appeal from the Deputy Zoning Commissioner's Order dated May 20, 1975 in the case of Baltimore Gas & Electric Company to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

John W. Hession, III
John W. Hession, III
People's Counsel

Charles E. Kuntz, Jr.
Charles E. Kuntz, Jr.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-3211

I HEREBY CERTIFY That a copy of the foregoing Order for Appeal was mailed this 19th day of June, 1975 to James H. Cook, Esquire, 22 W. Pennsylvania Avenue, Towson, Maryland 21204 and W. Robert Buchanan, Esquire, 17th Floor Gas and Electric Building, Baltimore, Maryland 21201, Attorneys for Petitioner.

Stamp: JUN 19 75 PM BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT No. 21636

DATE June 20, 1975 ACCOUNT 01-662 AMOUNT \$80.00

ZONING DEPARTMENT By: WHITE CASHIER John W. Hession, III, Esquire Cost of Filing of an Appeal and Posting of Property on Case No. 75-242-X (Item No. 147) N/S of Long Green Road, 4000' W of Long Green Pike 11th Election District Baltimore Gas & Electric Company - Petitioner



SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21404

March 25, 1977

Mr. S. Eric DiNenna
Zoning Commissioner
Baltimore County Office Building
Towson, Md. 21204

Dear Eric:

It has been brought to my attention that the Baltimore Gas & Electric Company is using property along Long Green Road as a maintenance yard for trucks and equipment. I gather that the number of vehicles utilizing this area is increasing rather rapidly. I am curious to know under what authorization such an operation can be maintained in this area, and whether or not anything can be done to either have this site closed or have restrictions placed upon it.

Thanks for your attention to this matter.

Sincerely,

Donald P. Hutchinson
Donald P. Hutchinson

DPH:ma
cc: Robert Carter



RE: PETITION FOR SPECIAL EXCEPTION
for the enlargement of an existing
public utility storage yard
N/S of Long Green Road, 4000'
W. of Long Green Pike
11th District
Baltimore Gas and Electric Co.
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 75-242-X

OPINION

This case comes before the Board on appeals filed from the Deputy Zoning Commissioner's Order of May 20th, 1975, granting the requested special exception subject to restrictions. Said appeals were filed by the People's Counsel and by Edward L. Blanton, Jr., Protestant. This case concerns a request for a special exception to permit the enlargement of an existing public utility storage yard located on the north side of Long Green Road, 4000 feet west of Long Green Pike, in the Eleventh Election District of Baltimore County.

Testimony indicated that a public utility storage yard had existed at the site of the Petitioner's property since 1910, having been originally established by the Susquehanna Power Company, which was later purchased by the Baltimore Gas and Electric Company.

The improvements contained on the property at this time consist of a dwelling converted to an office use, and three metal and block storage buildings. The site is also used for the storage of telephone poles, structural steel, electric cable and other paraphernalia used in the maintaining and repairing of transmission lines and towers.

On May 22nd, 1969, a special exception was granted to the existing utility yard (Case #68-271-X), the subject property being triangular in shape with a road frontage of approximately 178 feet, and a depth of approximately 721 feet. The property which is the subject of this petition lies immediately adjacent to the east side of the transmission lines, and when added to the existing site would form a rectangular shaped parcel. This, of course, would provide a more usable site and allow for the expansion claimed to be needed by the Petitioner.

In addition to the testimony of several of the employees of the Petitioner, the Board heard from Clark F. MacKenzie, a qualified real estate expert, who testified

Baltimore Gas and Electric Co. - #75-242-X

2.

that the proposal would cause no adverse effects to neighboring property values and could very well enhance them.

In addition to his testimony, James G. Haswell from the Baltimore County Planning Department stated that he had reviewed the special exception question, and that the proposal submitted would meet the criteria of Section 502.1 of the Baltimore County Zoning Regulations. He further indicated that the special exception would permit the Petitioner to operate in a better and more orderly fashion.

The Protestants presented five witnesses in opposition to the subject proposal, one of whom was the President of the Long Green Valley Association. The Protestants' opposition could be summarized into the following: Fear of additional traffic and its resulting problems; the unsightliness of the use on the subject property; potential danger from additional runoff, and the lights. In addition to this, the general opposition that such an operation as the Petitioner maintains does not belong in a rural setting in which it is located.

Without reviewing the evidence in detail, but based upon all the evidence and exhibits presented, it is the opinion of this Board that the proposed petition meets the requirements of Section 502.1 of the Baltimore County Zoning Regulations and, therefore, should be granted, subject to certain restrictions. The special exception shall be subject to restrictions as indicated in the accompanying Order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of August, 1976, by the County Board of Appeals, ORDERED that the special exception petitioned for, be and the same is hereby GRANTED, subject to the following restrictions:

1. The existing mercury vapor lamps shall be removed, and none shall thereafter be installed.
2. Any other lighting of the subject property shall be directed away from adjoining residential properties.
3. Any grading of the area shall be done in such a manner and to the extent possible to afford a natural barrier to off site view.

Baltimore Gas and Electric Co. - #75-242-X

3.

4. All parking, roadway, and storage areas shall be paved with bituminous graded paving and shall be curbed and otherwise graded so as to comply with all County and State standards for drainage and possible off site pollution of nearby streams.
5. There shall be no new vehicular points of access to either the existing or expanded parcel, which is the subject of this petition.
6. The existing screening shall not be removed, wherever located. The screening, as indicated on the plan and/or subject to surrounding residential properties, shall consist of two rows of spruce and pine trees, a minimum of six (6) feet high on ten foot staggered centers.
7. The number of employees regularly reporting to the facility for work assignments, either on or off the site, shall at no time exceed twenty-eight (28) in number. The number of motor vehicles parked on the site during the day shall at no time exceed twenty-eight (28) in number.
8. Helicopter landings at the site shall be discontinued.
9. No buildings, other than those on the existing parcel, shall be erected on either the existing or expanded parcel.
10. No storage of any materials shall exceed a height of ten (10) feet.
11. No materials shall be stored under the transmission lines at any time.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Rafter, Jr.
Walter A. Rafter, Jr., Chairman
Robert L. Gilland
Robert L. Gilland

Herbert A. Davis
Herbert A. Davis

Baltimore County
Office of Planning and Zoning
TOWSON, MARYLAND 21204
(301) 491-3351

S. ERIC DINENNA
ZONING COMMISSIONER

March 31, 1977

The Honorable Donald P. Hutchinson
Senate of Maryland
Annapolis, Maryland 21401

Re: Case No. 75-242-X
N/S of Long Green Road, 4000'
W of Long Green Pike
11th Election District

Dear Senator Hutchinson:

Your letter of March 25, 1977, addressed to the Honorable S. Eric DiNenna, Zoning Commissioner, and concerning the above referenced property, has been referred to this office for reply.

As referenced above, the property was the subject of a Petition request, by the Baltimore Gas and Electric Company, to enlarge a public utility storage yard. The original use was granted by Special Exception in a previous case (68-271-X). I have enclosed copies of the Opinions and Orders in both of these cases for your reference. The most recent decision, by the Baltimore County Board of Appeals, is presently on appeal before the Circuit Court for Baltimore County.

If further explanation or additional information is required, please feel free to contact this office.

Very truly yours,

JAMES B. BYRNES, III

The Honorable Donald P. Hutchinson
March 31, 1977
Page 2

Enclosures

cc: S. Eric DiNenna
Zoning Commissioner

James E. Dyer
Zoning Supervisor
File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: S. Eric DiNenna, Zoning Commissioner Date: April 8, 1977

FROM: William D. From, Director of Planning

SUBJECT: Petition #75-242. Petition for Special Exception for the enlargement of an existing public utility storage yard. North side of Long Green Road 4000 feet, more or less, West of Long Green Pike. Petitioner - Baltimore Gas & Electric Company

11th District

REMARKS: Wednesday, April 9, 1975 (10:30 A.M.)

There are no planning factors requiring comment on this petition at this time.

William D. From
William D. From
Director of Planning

WDF:REG:m



RE: PETITION FOR SPECIAL EXCEPTION
for the enlargement of an existing
public utility storage yard
N/S Long Green Road, 4000'
W. of Long Green Pike
11th District
Baltimore Gas and Electric Co.
Petitioner

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 75-242-X

AMENDED ORDER

For the purpose of clarifying several restrictions promulgated in a prior Order of this Board in the above entitled case, dated August 4, 1976, wherein the County Board of Appeals granted the special exception petitioned for subject to eleven restrictions, the Board hereby amends restrictions #4, #7 and #8.

ORDER

For the reasons set forth above, it is this 31st day of August, 1976, by the County Board of Appeals, ORDERED that the restrictions enumerated above, as per the prior Order, be and the same are hereby amended as follows:

- #4 All parking, roadway, and storage areas shall be paved in accordance with Petitioner's Exhibit #3, and shall be curbed and otherwise graded where required to comply with all County and State standards for drainage and possible off site pollution of nearby streams.
- #7 The number of employees regularly reporting to the facility for work assignments, either on or off the site, shall at no time exceed twenty-eight (28) in number. The number of employee's motor vehicles parked on the site during the day shall at no time exceed twenty-eight (28) in number.

Baltimore Gas and Electric Co. - #75-242-X

- #8 Helicopter landings at the site shall be discontinued, except as now permitted by Sections 420.4 and 420.6 of the Baltimore County Zoning Regulations.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Walter A. Miller, Jr., Chairman

Robert L. Gifford

Herbert A. Davis

RE: PETITION FOR SPECIAL
EXCEPTION for the
enlargement of an existing
public utility storage yard
N/S Long Green Road, 4000'
W. of Long Green Pike
11th District
Baltimore Gas and Electric
Company
Petitioner

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
No. 75-242-X

PETITION FOR EXTENSION
OF TIME FOR TRANSMITTAL
OF RECORD ON APPEAL

EDWARD L. BLANTON, JR., Appellant, on his own behalf and by his attorney, Jay V. Strong, Jr., petitions this Court for an extension of the time for transmittal of the record below in this appeal, and as grounds therefor says:

1. Maryland Rule of Procedure 87.a. allows but thirty (30) days from the date on which an appeal is filed for transmittal of the record below, including a transcript of the testimony taken below.
2. Appellant has been advised by the recorder of the hearing from which this appeal has been taken that he will require a minimum of sixty (60) days in which to prepare the transcript for transmittal to this Court.
3. Maryland Rule of Procedure 87.b. authorizes this Court to extend the time for transmittal of the record below to a maximum of ninety (90) days from the date on which an appeal is filed.

WHEREFORE, Appellant petitions this Court to pass an Order extending the time for transmittal of the record below from thirty (30) to seventy-five (75) days from the date on which this appeal was filed.

Edward L. Blanton, Jr.
Edward L. Blanton, Jr.

EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
12 WEST ROAD
TOWSON, MARYLAND 21204

EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
12 WEST ROAD
TOWSON, MARYLAND 21204

I HEREBY CERTIFY that on this 21st day of September, 1976, a copy of the foregoing Petition was mailed to John B. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorney for Petitioner; County Board of Appeals, Room 219 Courthouse, Towson, Maryland 21204; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant; and John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel.

Jay V. Strong, Jr.

August 4, 1976

Edward L. Blanton, Jr., Esquire
Suite 105, Weaver Plaza
1301 York Road
Lutherville, Md. 21093

Re: Case No. 75-242-X
Baltimore Gas and
Electric Co., Petitioner

Dear Mr. Blanton:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eisenhart, Adm. Secretary

Encl.

cc: John B. Howard, Esquire
W. E. Colburn, Esquire
Mr. Robert B. Carter
John W. Hessian, III, Esquire
Mr. S. E. DiNanno
Mr. J. E. Dyer
Mr. W. E. Fromm
Mr. J. Maxwell
Board of Education

BALTIMORE GAS AND ELECTRIC COMPANY
GAS AND ELECTRIC BUILDING
BALTIMORE, MARYLAND 21203

August 25, 1976

Board of Appeals of Baltimore County
Baltimore County Court House
Towson, Maryland 21204

Attention: Mr. Walter A. Reiter, Chairman

Re: Long Green Service Center
Baltimore Gas and Electric Company
Petition for Special Exception
Case No. 75-242-X

Gentlemen:

This is in reference to your request to Mr. Daniel Tracy, Attorney, asking for our reasons for specifying crusher run stone cover on some areas of the new parcel at our Long Green Service Center. The Order specifies that the area should be paved and curbs installed.

Because we are a public utility, evaluation of construction methods and costs are extremely important in that capital expenditures are generally reflected in the rate base. In this case, several alternatives were reviewed. The conclusion we reached was based primarily on the cost differential. Other factors which we considered dealt with the amount and type of usage the surface would receive as well as its durability and maintenance. Based on today's prices, a bituminous concrete surface would add an additional \$70,000 to the project. This cost excludes drainage piping and catch basins which would be required if the entire area were curbed. We, therefore, chose the most economical method to achieve our purpose.

Bituminous concrete surfacing is impervious. Because we could take advantage of the natural vegetation surrounding the property, and if the runoff were allowed to sheet flow, the amount and velocity of the runoff could be reduced. The crusher run surface was, therefore, specified. This will further reduce runoff since it is more porous than other types of paving, including tar and chip. We have had very few problems with the crusher run surface on the existing storage area.

It is true that a crusher run surface treatment may not be as aesthetically pleasing, perhaps, as a smooth macadam surface; however, when installed properly using appropriate placement methods, crusher run makes a very durable, dustless parking area. Likewise, because of limited traffic circulation, maintenance should be relatively minor and inexpensive. It should be noted here that since the entire property, except for that directly under the transmission line will be screened with 5' - 6' evergreens, the aesthetic qualities of bituminous concrete paving will undoubtedly be precluded.

Board of Appeals of
Baltimore County

- 2 -

August 25, 1976

I hope I have explained our position adequately and possibly answered some unasked questions; however, if I can be of any further help, you may contact my office directly by phone at (301) 234-6351, or as done previously, through Mr. Tracy or our Mr. W. E. Colburn, (301) 234-5669.

Very truly yours,

R. C. Egan
R. C. Egan
Engineer
Electric Engineering Department

RCE:jch

4104 Green Glade Road
Phoenix, Maryland 21131
April 21, 1976

County Board of Appeals
Room 218, Court House
Towson, Maryland 21204

RE: Case No. 75-242-X

Dear Sirs:

It has come to the attention of the Dulaney/Long Green Council through one of our member associations, the Long Green Community Association, that Baltimore Gas and Electric is applying for a special zoning exception in the case referenced above.

It is the position of our council that further expansion of the yard in this area is not in keeping with the general tone and rural atmosphere of the neighborhood.

Please be advised that the position to be expressed by Robert Carter is to be considered the position the Dulaney Council wishes to take in this matter.

Respectfully,

Brent D. Lehmann
Brent D. Lehmann
President

Rec'd 4/1/76
9:45 am
(Hand 100% by Sgt. (Barn))

RE: PETITION FOR SPECIAL EXCEPTION for the enlargement of an existing public utility storage yard N/S Long Green Road, 4000' W. of Long Green Pike 11th District

Baltimore Gas and Electric Company

Petitioner

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY No. 75-242-X

PETITION

Edward L. Blanton, Jr., Appellant, Protestant below, on his own behalf, and by his attorney, Jay V. Strong, Jr., appeals the decision of the County Board of Appeals, in the matter of the Baltimore Gas and Electric Company's Petition for Special Exception, and pursuant to Maryland Rule 82.e., as grounds therefor says:

1. The Deputy Zoning Commissioner passed an Order dated 20 May 1975 granting a special exception to the Baltimore Gas and Electric Company, permitting it to enlarge a public utility storage yard located on the north side of Long Green Road, 4000 feet west of Long Green Pike, in the Eleventh Election District of Baltimore County.
2. After a hearing on the appeal from the Order of the Deputy Zoning Commissioner, the County Board of Appeals held that "the proposed petition meets the requirements of Section 502.1 of the Baltimore County Zoning Regulations and, therefore, should be granted, subject to certain restrictions."
3. The present use of the property which is the subject of the Petition for Special Exception goes far beyond the use which is permitted under the preceding ruling of the Zoning Commissioner on 22 May 1969 (Case No. 68-271-X), but rather

than take steps to prevent the continuing illegal use of the property, the rulings of the Zoning Commissioner and the County Board of Appeals in the instant case in effect sanction past illegal uses and permit an expansion of such uses.

4. The Baltimore Gas and Electric Company has failed to establish, in any hearings on this matter, that the present use of the property (in violation of the Special Exception now in effect) is not detrimental to "...the general welfare of the locality involved;" (Baltimore County Zoning Regulation 502.1-a.), nor that it does not "tend to create congestion in roads, streets or alleys therein;" (Baltimore County Zoning Regulation 502.1-b.), nor that it does not impinge the quality, quiet and safety of the locality.

5. Assuming arguendo the special exception sought in the instant case might result in an improvement, in terms of compliance with Baltimore County Zoning Regulation 502.1, over the present illegal use of the property, it does not follow that the special exception sought in the instant case will or could result in such an improvement over, or even an avoidance of deterioration from, the use of the property which is presently permitted, authorized or sanctioned by the special exception now in effect. The Baltimore Gas and Electric Company has failed to establish that the special exception sought in the instant case compared to the use of the property now authorized, as counterdistinguished from a comparison to the now existing illegal use of the property, satisfies or meets the requirements of Baltimore County Zoning Regulation 502.1.

6. By granting the Baltimore Gas and Electric Company's Petition for Special Exception without that company's first establishing that the special exception sought would satisfy the requirements of Baltimore County Zoning Regulation 502.1 re-

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EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
14 WEST ROAD
TOWSON, MARYLAND 21204

vant to the use permitted by the special exception with all its restrictions now in effect, the Deputy Zoning Commissioner and the County Board of Appeals have committed reversible error.

WHEREFORE, appellant prays that:

1. The decision of the County Board of Appeals granting the Baltimore Gas and Electric Company's Petition for Special Exception be reversed;
2. The Baltimore Gas and Electric Company's Petition for Special Exception be denied; and
3. That the Office of the Zoning Commissioner be ordered to enforce the special exception now in effect for the use of the property, particularly the restrictions imposed thereby.

Edward L. Blanton, Jr.

Edward L. Blanton, Jr.

Jay V. Strong, Jr.

Suite 300 Executive Building
22 West Road
Towson, Maryland 21204
296-8160

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EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
14 WEST ROAD
TOWSON, MARYLAND 21204

RE: PETITION FOR SPECIAL EXCEPTION for the enlargement of an existing public utility storage yard N/S Long Green Road, 4000' W. of Long Green Pike 11th District

Baltimore Gas and Electric Company

Petitioner

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY No. 75-242-X

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of September 1976, copies of the Order for Appeal and Petition were mailed to: John B. Howard, Esquire, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Baltimore Gas and Electric Company, Baltimore, Maryland 21203, Attorneys for Baltimore Gas and Electric Company; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant; John W. Hessian, III, Esquire, Peoples' Counsel, County Office Building, Towson, Maryland 21204; Mr. S. Eric D. Menna, Zoning Commissioner, and Mr. James E. Dyer, County Office Building, Towson, Maryland 21204; Mr. W. D. Fromm, Director of Planning, and Mr. J. Roswell, Office of Planning, County Office Building, Towson, Maryland 21204; Baltimore County Board of Education, 6901 North Charles Street, Towson, Maryland 21204; and Edith T. Eisenhart, Administrative Secretary, County Board of Appeals, Room 219, Court House, Towson, Maryland 21204.

Jay V. Strong, Jr.

EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
14 WEST ROAD
TOWSON, MARYLAND 21204

Robert B. Carter
Mr. Walter A. Reiter, Chairman
County Board of Zoning Appeals
219 Court House
Towson, Maryland 21204

Dear Mr. Reiter:

The Baltimore Gas and Electric Co. is asking for a special exception to expand their present storage yard on Long Green Road, Baltimore County, Maryland. As president of the Long Green Valley Association Inc., I have been asked to express our objections to the granting of this special exception.

Until a 1968 special exception was granted to Baltimore Gas and Electric to build several new storage sheds on the west side of their power lines, the use of this facility was very limited. After the granting of this special exception, the following changes occurred on this property:

1. The high voltage division of Baltimore Gas and Electric (overhead steel towers) consolidated all of their material and equipment storage on the Long Green Site. This site is now the only storage facility for this type of equipment and serves the state from Calvert Cliffs to the Pennsylvania line.
2. Most of the reel, wire, towers and other large fixtures have been stored in full view under the power lines. No special exception has been granted for use of this area.
3. The property is lighted at night in such a way that the entire valley surrounding the site is also illuminated.
4. The number of personnel and vehicles on Long Green Road and surrounding roads has increased.
5. Since utility poles are stacked near the stream behind the site, creosote has contaminated the run off to the stream.
6. Helicopters land and take off regularly from the site.
7. Baltimore Gas and Electric has purchased more acreage to expand

their storage facilities.

8. No screening has been provided in the areas at the rear of the property to eliminate the objectionable views to neighbors.

As an Association of homeowners in this area, we voted on the 9th of June, 1976, to formally request the Baltimore County Board of Zoning Appeals to deny the Baltimore Gas and Electric Co.'s request for this special exception. The following reasons are listed as some of our objections:

- a. The high tension construction and maintenance division provides no direct services to the businesses or residents of the area. We suggest that a construction unit like this could better serve B G & E Co. and its customers if it is located in the new 40 acre Central Storage Facility in Woodlawn, which B G & E has developed for storage use.
- b. The membership of this association supports the rural deferred zones planned for the Long Green Valley area. Many land owners are sacrificing future development potential of their property, to insure that the area remains open for agricultural and limited residential uses. The granting of an industrial-type zoning at this location destroys what we have been asked to preserve.
- c. The site is situated in the bottom of the valley and can be viewed for miles from the higher hillsides. There is no way to properly screen this site because trees would interfere with high tension wires and helicopter landings.
- d. B G & E has not been able to show that they have a permit to land a helicopter on this site. Helicopter landings come in low over homes and also disturb livestock.
- e. Run-off from the storage area and parking lots have caused and

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will continue to cause pollution to the streams behind this property.

f. No public water and sewage system exists in this area. The planned expansion and the need for more septic systems may not be realistic on this site, since the valley floor has poor percolation.

g. We feel that the Department of Planning did not understand the fact that B G & E failed to have a special exception for storage under the power lines. We also feel that the Planning Department would not support B G & E's second request if they understood the limited uses granted in the 1968 special exception.

h. The granting of this special exception will permanently change the use and value of land in the Long Green Valley area. The B G & E asked for the opinion of a well-known real estate expert on how the second exception would change the land use and values in the valley. Three parcels were for sale on Long Green Road adjacent to the site. By the experts own testimony, the one parcel immediately next to the site brought a lower price per acre than the two parcels further away from the site. All three parcels were sold by the same individual within a month of each other.

The B G & E has found cheap land on Long Green Road.

The land is cheap because it is farmland in a rural area. Why should prime agricultural land be ruined by contractors storage yard that is meant to be placed in an industrial area. A private individual would not be granted the right to have a contractor's storage yard of heavy equipment on land that is zoned rural deferred planning, so why should a public utility be given such a preference?

The B G & E has already burdened the area with an exceptionally unsightly power station in Glen Arm, just a few miles from the instant site. Why now another unwarranted spot zoning of a rural area?

-3-

We feel that the Board of Zoning Appeals must deny the request for this special exception. It will continue to help preserve the agricultural and residential lands of Baltimore County as the planning Board intended for this area.

By vote of the Association on June 9, 1976, I am authorized to present the Association's views on this matter to the Board of Zoning Appeals.

Robert B. Carter
ROBERT B. CARTER, PRESIDENT
Long Green Valley Association

Sharon Trader
SHARON TRADER, SECRETARY

-4-

RE: PETITION FOR SPECIAL EXCEPTION for the enlargement of an existing public utility storage yard N/S Long Green Road, 4000' W. of Long Green Pike 11th District
Baltimore Gas and Electric Company
Petitioner
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
No. 75-242-X

ORDER FOR APPEAL

MR. CLERK:

Please enter an appeal to the Circuit Court for Baltimore County on behalf of Edward L. Blanton, Jr., Protestant, from the Opinion and Order of the Baltimore County Board of Appeals in this action on 4 August 1976.

Edward L. Blanton, Jr.
Edward L. Blanton, Jr.

Jay V. Strong, Jr.
Jay V. Strong, Jr.
Suite 300 Executive Building
22 West Road
Towson, Maryland 21204
296-8160

I HEREBY CERTIFY that pursuant to Maryland Rule B2.c., on the 18th day of August 1976, a copy of the foregoing Order for Appeal was delivered to the County Board of Appeals, Room 219, Court House, Towson, Maryland 21204, and left there with Edith T. Eisenhart, Administrative Secretary.

Jay V. Strong, Jr.
Jay V. Strong, Jr.

EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
11 WEST ROAD
TOWSON, MARYLAND 21204

RE: PETITION FOR SPECIAL EXCEPTION for the enlargement of an existing public utility storage yard N/S Long Green Road, 4000' W. of Long Green Pike 11th District
Baltimore Gas and Electric Company
Petitioner
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
AT LAW
Zoning File No. 75-242-X
Edward L. Blanton, Jr.
Protestant-appellant
Misc. Docket No. 10
File No. 261
6019

ANSWER OF BALTIMORE GAS AND ELECTRIC COMPANY, PETITIONER/APPELLEE, TO PETITION OF APPEAL OF EDWARD L. BLANTON, JR., APPELLANT

BALTIMORE GAS AND ELECTRIC COMPANY, Petitioner/Appellee in the above-entitled case by William E. Colburn, James A. Madison, Jr., and John B. Howard, its attorneys, for answer to the Petition of Appeal, says:

1. The Petitioner/Appellee admits the allegations of paragraph 1 of the Appellant's Petition of Appeal.
2. The Petitioner/Appellee admits the allegations of paragraph 2 of the Appellant's Petition of Appeal. Further answering, by Order dated August 31, 1976, the County Board of Appeals, for the purpose of clarification, amended three restrictions as promulgated in its original Order of August 4, 1976.
3. The Petitioner/Appellee denies the allegations of paragraph 3 of the Appellant's Petition of Appeal and avers that by Order dated May 22, 1968, the Deputy Zoning Commissioner for Baltimore County granted the Petitioner/Appellee a Special Exception to use a parcel of land containing approximately 2.28 acres in the 11th Election District of Baltimore County for a public utility service center, said parcel of land being located adjacent to the land which is the subject of the instant case and not a part thereof. Therefore, the use of the existing public utility service center is not at issue in the present case and not subject to judicial review.
4. The Petitioner/Appellee denies the allegations of paragraph 4 of the Appellant's Petition of Appeal and reiterates that the use of its existing public utility facility is not at issue in the instant case and not subject to judicial review.

5. The Petitioner/Appellee denies the allegations of paragraph 5 of the Appellant's Petition of Appeal.

6. The Petitioner/Appellee denies the allegations of paragraph 6 of the Appellant's Petition of Appeal.

7. Further answering, the Petitioner/Appellee alleges that all of the requirements of Section 502.1 of the Baltimore County Zoning Regulations have been met.

WHEREFORE, the Petitioner/Appellee prays that the Order of the County Board of Appeals, dated August 4, 1976, and the amended Order of the County Board of Appeals, dated August 31, 1976, granting the Baltimore Gas and Electric Company's Petition for Special Exception for the enlargement of an existing public utility storage yard, be affirmed.

William E. Colburn
William E. Colburn

James A. Madison, Jr.
James A. Madison, Jr.
17th Floor Gas and Electric Building
Baltimore, Maryland 21203
234-5669

John B. Howard
409 Washington Avenue
Towson, Maryland 21204
838-4111

Attorneys for Petitioner/Appellee
Baltimore Gas and Electric Company

CERTIFICATION

THIS IS TO CERTIFY that a copy of the foregoing Answer of Baltimore Gas and Electric Company, Petitioner/Appellee, to Petition of Appeal of Edward L. Blanton, Jr., Appellant, has been mailed to Edward L. Blanton, Jr., Esq., Suite 300, Executive Building, 22 West Road, Towson, Maryland 21204, Protestant/Appellant; Jay V. Strong, Jr., Esq., Suite 300, Executive Building, 22 West Road, Towson, Maryland 21204, Attorney for Protestant/Appellant; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant; John W. Hessian, III, Esq., County Office Building, Towson, Maryland 21204, People's Counsel; and Edith T. Eisenhart, Administrative Secretary, County Board of Appeals, Room 219, Court House, Towson, Maryland 21204, this 29 day of September, 1976.

John B. Howard
Attorney for
Petitioner/Appellee
Baltimore Gas and Electric Company

PROPOSED RESTRICTIONS ON BALTIMORE GAS & ELECTRIC COMPANY LONG GREEN STATION

1. The existing mercury vapor lamps shall be removed, and none shall thereafter be installed.
2. Any grading of the area shall be done in such a manner and to the extent possible to afford a natural barrier to off-site view, and a birne with a minimum elevation of six (6') feet shall be erected along the eastern and northern boundaries of the site, which shall be covered with grass sod in its entirety.
3. All parking, roadway and storage areas shall be paved with bituminous concrete paving and it shall be curbed and otherwise graded so as to comply with all county and state standards for drainage and possible off site pollution of nearby streams. A holding tank for spillage of gasoline shall be installed in connection with all fueling facilities located on the property. An additional holding tank shall be installed in such a way as to collect the runoff of automobile oil, creosote from wooden poles, and coating on wire reels from the paved area and storage facilities, to prevent pollution of nearby streams.
4. There shall be no new vehicular points of access to either the existing or expanded parcel, which is the subject of this Petition.
5. The number of vehicles parked on the entire site, whether the existing or expanded parcel, shall be limited to those which can be stored overnight in the existing garage facility.
6. The number of employees reporting to the facility for work assignments, either on or off the site, shall at no time exceed twenty-eight (28) in number. The number of motor vehicles parked on the site during the day shall at no time exceed twenty (20) in number.
7. Helicopter landings at the site shall be discontinued.
8. The existing screening shall not be removed, wherever located, and shall be reinforced by an additional row of spruce and pine trees with a minimum height of six (6') feet. The expanded parcel, which is the subject of this Petition, as well as the rear of the existing site, shall be screened by three (3) rows of pine and evergreen trees; the middle row which shall be planted at the highest point of the six (6') ft birne, a minimum of ten (10') feet high on ten (10') foot staggered centers.

9. No buildings, other than those on the existing parcel, shall be erected on either the existing or expanded parcel.
10. No storage of any materials shall exceed a height of six (6') feet.
11. No materials shall be stored under the transmission lines at any time at a distance greater than seven hundred fifty (750') feet from Long Green Road.

Mr. Robert B. Carter, President
Long Green Valley Association
Long Green Road
Long Green, Maryland 21092

July 1, 1976

Re: Case No. 75-242-X
Baltimore Gas and Electric Co.

Dear Mr. Carter:

We acknowledge receipt of your letter of June 30, 1976 regarding the above entitled case.
This case was heard by the Board on May 4, 1976, and we must advise you that no evidence can be accepted after the conclusion of the testimony.
Thank you for your attention in this matter, and you will be duly notified when the Board renders its decision in this case.

Very truly yours,

Robert L. Gilland, Vice Chairman

RLG

The Board of Zoning Commissioners

This letter is in reference to the zoning hearing for a special exception by the Baltimore Gas & Electric Co. to enlarge there present storage area, on there Long Green Road property in Glen Ivy, MD. I live on Long Green Road and would like it known to the zoning board that I am opposed to this exception. There is already a storage yard that is quite visible from my home, and I feel that to add more space for this purpose would destroy the beauty of the Long Green Valley even more.
If the board would decide to grant this exception I would like something in writing that the B. G. & E. would have to landscape the storage yard with large pine and trees so that the neighborhood would not be seen from my home.

Thank you
Helen P. Magawana
Helen P. Magawana
5010 Long Green Road
Glen Ivy, MD. 21057



RE: PETITION FOR VARIANCE : IN THE
from Section 1A00.38.3 of the : CIRCUIT COURT
Baltimore County :
Zoning Regulations : FOR
N/S Long Green Road, 4000' :
W. of Long Green Pike : BALTIMORE COUNTY
11th District :
Baltimore Gas and Electric Company : AT LAW
Petitioners :
Zoning File No. 75-242-X : Misc. Docket No. 10
Edward L. Blanton, Jr. : Folio No. 261
Protestant-Appellant : File No. 6019

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure; Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, John B. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204, and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorneys for the Petitioner, Edward L. Blanton, Jr., Esquire, Suite 105, Heaver Plaza, 1301 York Road, Lutherville, Maryland 21093, Protestant-Appellant, Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County
Towson, Maryland 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to John B. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorneys for the Petitioner, Edward L. Blanton, Jr., Esquire, Suite 105, Heaver Plaza, 1301 York Road, Lutherville, Maryland 21093, Protestant-Appellant, Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel, on this 9th day of September, 1976.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

cc: B. Anderson
J. Howell

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
for the enlargement of an existing : CIRCUIT COURT
public utility storage yard :
N/S Long Green Road, 4000' : FOR
W. of Long Green Pike : BALTIMORE COUNTY
11th District :
Baltimore Gas and Electric Co. : AT LAW
Petitioner :
Zoning File No. 75-242-X : Misc. Docket No. 10
Edward L. Blanton, Jr. : Folio No. 261
Protestant-Appellant : File No. 6019

AMENDED CERTIFICATE OF NOTICE TO CORRECT TITLING

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure; Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, John B. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorneys for the Petitioner, Edward L. Blanton, Jr., Esquire, Suite 105, Heaver Plaza, 1301 York Road, Lutherville, Maryland 21093, Protestant-Appellant, Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County
Room 219, Court House
Towson, Maryland 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to John B. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland 21203, Attorneys for the Petitioner, Edward L. Blanton, Jr., Esquire, Suite 105, Heaver Plaza, 1301 York Road, Lutherville, Maryland 21093, Protestant-Appellant, Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel, on this 9th day of September, 1976.

RE: PETITION FOR SPECIAL EXCEPTION : IN THE
for the enlargement of an existing : CIRCUIT COURT
public utility storage yard :
N/S Long Green Road 4000 ft. : FOR
West of Long Green Pike : BALTIMORE COUNTY
11th District :
Baltimore Gas and Electric Company : AT LAW
Petitioner :
Zoning File No. 75-242-X : Misc. Docket No. 10
Edward L. Blanton, Jr. : Folio No. 261
Protestant - Appellant : File No. 6019

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Walter A. Reiter, Jr., Robert L. Gillard and Herbert A. Davis, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 75-242-X

Jan. 27, 1976 Comments of Board of Education of Baltimore County - filed
" 31 " " Baltimore County Department of Health - filed
Feb. 21 " " Baltimore County Project and Development Planning office
" 27 Comments of Baltimore County Bureau of Engineering - filed
Mar. 3 " " Department of Traffic Engineering - filed
" " Baltimore County Fire Department - filed
" 4 Petition of Baltimore Gas and Electric Company for special exception
for the enlargement of an existing public utility storage yard on
property located on the north side of Long Green Road 4000 feet west
of Long Green Pike, 11th District - filed
" 4 Order of Zoning Commissioner directing advertisement and posting of
of property - date of hearing set for April 9, 1975 at 10:30 a.m.

Baltimore Gas and Electric Co. v. Edw. L. Blanton, Jr. - 10/26/1979 2.
and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204,
People's Counsel, on this 20th day of September, 1976.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

Re: PETITION FOR SPECIAL EXCEPTION : IN THE
for the enlargement of an existing : CIRCUIT COURT
public utility storage yard N/S :
Long Green Road 4,000 feet West : FOR BALTIMORE COUNTY
of Long Green Pike, 11th District :
Baltimore Gas and Electric Company : Misc. Docket No. 10
Petitioner - Appellee : Folio No. 261
Zoning File No. 75-242-X : File No. 6019
Edward L. Blanton, Jr. :
Protestant - Appellant :
* * * * *

ORDER FOR APPEAL BY EDWARD L. BLANTON, JR. PROTESTANT - APPELLANT

MR. CLERK:

Please enter an Appeal to the Court of Special Appeals
on behalf of Edward L. Blanton, Jr., Protestant - Appellant,
from the Order entered in this action on 30 June 1977.

Jay V. Strong, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July, 1977, copies of the foregoing Order for Appeal by Edward L. Blanton, Jr., Protestant - Appellant, were mailed to: John B. Howard, Esquire, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Baltimore Gas and Electric Company, Baltimore, Maryland 21203, Attorneys for Baltimore Gas and Electric Company; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092; John W. Hession, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204; Mr. B. Eric Dinenna, Zoning Commissioner, and Mr. James E. Byer, County Office Building, Towson, Maryland 21204; Mr. W. D. Fromm, Director of Planning, and Mr. J. Howell, Office of Planning, County Office Building, Towson, Maryland 21204; and Edith T. Eisenhart, Administrative Secretary, County Board of Appeals, Room 219, Court House, Towson, Maryland 21204.

EDWARD L. BLANTON, JR.
ATTORNEY AT LAW
100 WEST ROAD
TOWSON, MARYLAND 21204
(410) 281-1000

Jay V. Strong, Jr.

Rec'd 7-25-77
10:30 AM

Baltimore Gas and Electric Co. - No. 75-242-X (6019) 2.
Mar. 20, 1975 Certificate of Posting of property - filed
" 20 " " Publication in newspaper - filed
Apr. 8 Comments of Director of Planning of Baltimore County - filed
" 9 At 10:30 a.m. hearing held on petition by Deputy Zoning Commissioner
of Baltimore County - case held sub curia
May 20 Order of Deputy Zoning Commissioner granting special exception, sub-
ject to restrictions
June 13 Order of Appeal to County Board of Appeals from Order of Deputy
Zoning Commissioner, filed by Edward L. Blanton, Jr., Protestant
" 19 Amended Order of Appeal filed by Edward L. Blanton, Jr.
" 19 Order for Appeal to County Board of Appeals filed by John W. Hession,
III, Esq., People's Counsel
May 4, 1976 Hearing on appeal before County Board of Appeals - case held sub curia
Aug. 4 Order of County Board of Appeals granting special exception, subject
to restrictions
" 31 Amended Order of County Board of Appeals filed
Sept. 3 Order for Appeal filed in Circuit Court for Baltimore County by
Edward L. Blanton, Jr.
" 3 Petition to accompany Order for Appeal filed in Circuit Court for
Baltimore County
" 8 Certificate of Notice sent to all interested parties
" 20 Amended Certificate of Notice to Correct Titling filed
" 21 Petition for Extension of Time for transmittal of record on appeal filed
in Circuit Court
Oct. 25 Transcript of testimony filed - 1 volume
Petitioner's Exhibit No. 1 - Map showing circuits (6/1/75)
" " " 2 - Drawing No. 121-202-E, dated 12/20/72,
B. G. & E.
" " " 3 - Plot
" " " 4 - Report - Clark F. Moskanzie, 4/30/76
" " " 5 - Aerial photo
People's Counsel Exhibits Nos. 10 thru 14 - Photos

Baltimore Gas and Electric Co. - No. 75-242-X (6019) 3.
Oct. 26, 1976 Record of proceedings filed in the Circuit Court for Baltimore
County
Record of proceedings pursuant to which said Order was entered and said
Board acted are permanent records of the Zoning Department of Baltimore County, as are
also the use district maps, and your respondents respectively suggest that it would be incon-
venient and inappropriate to file the same in this proceeding, but your respondents will
produce any and all such rules and regulations, together with the zoning use district maps
at the hearing on this petition, or whenever directed to do so by this Court.
Respectfully submitted,
Muriel E. Backmeier
County Board of Appeals of Baltimore County

cc: John B. Howard, Esquire
W. E. Colburn, Esquire
Edward L. Blanton, Jr., Esquire
John W. Hession, III, Esquire

January 9, 1979

Jay V. Strong, Jr., Esquire
300 Executive Building
22 West Road
Towson, Maryland 21204
William E. Colburn, Esquire
James L. Hession, Jr., Esquire
17th Floor Gas & Electric Building
Baltimore, Maryland 21203

John B. Howard, Esquire
409 Washington Avenue
Towson, Maryland 21204

Re: Edward L. Blanton, Jr., v. Baltimore Gas and Electric Company
No. 612, September Term, 1977

Dear Counsel:

Your Joint Motion for Remand, in the captioned case,
was presented to the Court, and you will please find enclosed
a copy of an Order dated January 5, 1979, remanding the case
to the Circuit Court for Baltimore County for entry of a final
Order settling the rights of all parties. The Order directs
that the mandate issue forthwith and a copy thereof is enclosed;
and the appeal record is being returned forthwith to the Clerk
of the Court below.

Very truly yours,

Julius A. Romano
Clerk

JAR/mse

Enclosures

cc:

RE: PETITION FOR SPECIAL EXCEPTION
for the enlargement of an existing
public utility storage yard
N/S Long Green Road, 4000'
W. of Long Green Pike
11th District
Baltimore Gas and Electric Co.
Petitioner
Zoning File No. 75-242-X
Edward L. Stanton, Jr.
Protestant-Appellant
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT L.A.H.
Misc. Docket No. 10
Folio No. 261
File No. 6019

AMENDED CERTIFICATE OF NOTICE
TO CORRECT TITLING

Mr. Clerk:

Pursuant to the provisions of Rule 8-2(d) of the Maryland Rules of Procedure;
Walter A. Reiter, Jr., Robert L. Gilland and Herbert A. Davis, constituting the County
Board of Appeals of Baltimore County, have given notice by mail of the filing of the
Appeal to the representative of every party to the proceeding before it; namely, John S.
Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland
21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore, Maryland
21203, Attorneys for the Petitioner, and Edward L. Stanton, Jr., Esquire, Suite 300,
Executive Building, 22 West Road, Towson, Maryland 21204, Protestant-Appellant, and
Mr. Robert S. Carter, Long Green Road, Long Green, Maryland 21092, Protestant, and
John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204,
People's Counsel, a copy of which notice is attached hereto and prayed that it may be
made a part thereof.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County
Room 219, Courthouse
Towson, Maryland 21204
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been
mailed to John S. Howard, Esquire, Mercantile-Towson Building, 409 Washington Avenue,
Towson, Maryland 21204 and W. E. Colburn, Esquire, Gas and Electric Building, Baltimore,
Maryland 21203, Attorneys for the Petitioner, and Edward L. Stanton, Jr., Esquire, Suite
300, Executive Building, 22 West Road, Towson, Maryland 21204, Protestant-Appellant,
and Mr. Robert S. Carter, Long Green Road, Long Green, Maryland 21092, Protestant,

Baltimore Gas and Electric Co. v. Edw. L. Stanton, Jr. - 10/26/6019

2.

and John W. Hessian, III, Esquire, County Office Building, Towson, Maryland 21204,
People's Counsel, on this 20th day of September, 1976.

Edith T. Eisenhart, Adm. Secretary
County Board of Appeals of Baltimore County

cc: Howard, Esq.
Colburn, Esq.
Blanton, Esq.
Hessian, Esq.
Carter
Mrs. Anderson, Zoning
J. Howell, Planning

HOWARD L. BLANTON, JR. * IN THE CIRCUIT COURT
Protestant-Appellant * FOR BALTIMORE COUNTY
vs. * At Law
BALTIMORE GAS & ELECTRIC COMPANY * Misc. Docket: 10
Petitioner-Appellee * Folio: 261
File: 6019

MEMORANDUM

I. Statement of the Case.

This is an appeal taken from the decision of the Baltimore
County Board of Appeals, dated 4 August 1976 (as modified by
further Order dated 31 August 1976) granting, subject to restric-
tions, a Special Exception to the Baltimore Gas & Electric Company
and permitting it to enlarge a storage yard located in a rural
residential area of Baltimore County presently zoned R.D.P.
(Tr. 100).

II. Statement of the Facts.

The property which is the subject of this appeal (herein,
the "Long Green site" or the "Long Green facility") was acquired
by the Susquehanna Transmission Company in 1910 (Tr. 12) and was
passed to the Appellee upon its purchase of the Susquehanna
Transmission Company in 1955 (Tr. 13, 28). In 1955, the property
consisted of a large brown shingle home used for offices, a con-
crete block building containing storeroom and washing facilities
and a metal shed (Tr. 33). The area was screened with trees,
and "it appeared to be just another farmhouse" (Tr. 143). Nearby
residents "were not aware of anything...in 1953"; nothing was
visible from the road"; and as late as 1958, "there was still

Rec'd 11-15-76
9:30 AM

EDITH T. EISENHART, JR.
ATTORNEY AT LAW
15 WEST ROAD
TOWSON, MARYLAND 21204

very little activity" at the site (Tr. 139). The site is located
in the centre of a triangle of three ancient Baltimore County
homes: "Prospect Hill", the 250 year old property listed "in
the National Register that belongs to Dr. and Mrs. Howard Kelly"
(Tr. 110); "Avondell", which is owned by the Appellant and was
constructed in 1748; and "Long Green", the 200 year old ancestral
home of the Gittings family.

Through the end of 1968, use of the site by the Appellee
"was so slight as to be inconspicuous to everyone" (Tr. 143, 105).
In 1968, however, the Appellee sought, and in 1969 obtained, per-
mission from the Baltimore County Zoning Commissioner to erect
"a metal shed building, a storage building of some type on the
property" (Tr. 143). No final order was entered in the case,
and although the request was solely to permit erection of the
storage building on the site (Tr. 2), the absence of a final
order limiting the use to which the site can be put has been
seized by the Appellee to justify the expanded use to which the
site has since been put.

Beginning in July of 1969, the Appellee moved its entire
maintenance and construction of overhead transmission department
from Monument Street to the Long Green site (Tr. 8, 149, 152)
and has increased the number of employees from "a handful"
to as many as twenty-seven (Tr. 16, 150). The Long Green site
is now "the only facility for this type of work" which the
Appellee has (Tr. 151). The company's "entire overhead trans-
mission facility is serviced from the Long Green location",
representing "726 centre line circuit miles of transmission"
and "a little over 1,000 circuit miles of conductors", covering
a territory of "2,300 square miles which includes Baltimore
City, Baltimore County, Harford County, Carroll County, Howard
County and Anne Arundel County", as well as "parts of Montgomery

-2-

County, Prince George's County and...Calvert County" (Tr. 9,
10).

The eight-acre site is used for the storage of ten or
twelve "steel towers and overhead transmission conductors, in-
sulators and fittings" (Tr. 20, 35) and sixty reels of wire, in-
cluding at least twenty 6' high coils of wire and twenty-five
42" coils of wire (Tr. 22, 35); barrels of bolts (Tr. 22); and,
other than storage at the job-site, all such materials inventoried
by the Appellee are stored in a haphazard fashion, in the open,
at the Long Green site (Tr. 27, photographic exhibits). The
site is also used to store excess steel (Tr. 65), telephone
poles ranging in length from fifteen to thirty feet, all of
which are coated with creosote (Tr. 61, 64), as well as storage
tanks for oil and gasoline (Tr. 62). It was admitted that no
underground recovery pit for petroleum spillage existed at the
site (Tr. 64). The workday at the Long Green site is from
7:30 a.m. until 4:00 p.m. (Tr. 33), and the twenty-six employees
report to the site in from twenty to twenty-two motor vehicles,
which are parked on the site all day long (Tr. 34). Formerly,
the Appellee's employees reported directly to the job-sites, but
since 1969 they have reported to the Long Green site and departed
for the job-sites from there (Tr. 152). The traffic arriving
at the Long Green site and departing for job-sites in the morn-
ing coincides with the period that school children must wait
for their buses (Tr. 124-125) and the period that local resi-
dents are attempting to drive to work (Tr. 144-145). The
Appellee keeps thirteen vehicles of its own there, consisting
of seven three-quarter ton trucks, two jeep-type vehicles, a
crane truck, a large utility truck, a line truck and a convoy
lift (Tr. 34). The materials are delivered to the site in a
three ton "van-type truck" (Tr. 39). The coils of wire are

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delivered by tractor-trailer (Tr. 41) or by a "low bed" truck,
which is permanently stationed at Long Green (Tr. 41). There
are also two "deep D-6" and "4-D" frontend loaders permanently
stationed at the site, which are moved to and from the site on
a low bed truck (Tr. 42). "Three bulldozers" complete the
sizeable transportation and construction equipment fleet sta-
tioned at Long Green (Tr. 42).

The only water available at the site is from wells, and the
only sewerage facilities are septic tanks (Tr. 39). A helicopter
made twenty-nine logged flights to the site in 1975 and had
thirteen trips to the site in the first four months of the
year 1976. The site is lighted all night long by four 400-watt
mercury vapour lamps attached to poles and two 175-watt mercury
vapour lamps attached to buildings. Since 1968 there has been
a thirty to forty per cent increase in the number of employees
stationed there, and the amount of traffic in and out of the
site has more than doubled (Tr. 124).

Having moved its entire transmission maintenance operation
to the Long Green site in 1969 without obtaining approval from
the zoning authorities therefor, the use of the site has expan-
ded and further growth is anticipated. Automobiles and truck
traffic greatly increased (Tr. 143), and "masses of cables, coils,
boxes, poles, all sorts of containers..." were deposited at the
site, which spilled over to the property "underneath the power
lines, and every year it seems to be worse than it was before";
a "long line of construction material" was placed underneath the
power lines (Tr. 144).

Although the Appellee contends that the site is used for
emergency repairs, it was undisputed that, following Hurricane
Agness in 1972, all of the bridges between the site and Baltimore
City were closed to traffic, and the only traffic route from the

-4-

site to Baltimore City was through Bel Air, Maryland and Inter-
state 95 (Tr. 145). The evidence also shows that the facilities
in question could be relocated to another site, but that the
present site is preferred for considerations of convenience and
efficiency (Tr. 26), and that the expansion is principally sought
to make the facility more efficient and convenient to use
(Tr. 45, 46). The testimony from the Appellee's employees
left the Board with the "impression this becomes the place where
materials are left over from construction of high voltage trans-
mission lines, that they are stored indefinitely and may be used
for maintenance, but technically this is being used as a construc-
tion site headquarters in addition to maintenance and repairs
as it was testified to earlier" (Tr. 63).

In 1972, the Appellee purchased an adjoining tract of land
for which it now seeks a Special Exception in order to store
"in a more orderly fashion" a confused mass of materials which
it has illegally placed on the site since 1968 (Tr. 13, 46-48).
It seeks to grade and pave the area, to install "thirty-three
inch high concrete piers, with a thirty inch square base"
(Tr. 50, 53). Some expansion is planned (Tr. 69, 72). Baltimore
County Planning Office says that it is not opposed to the grant-
ing of a Special Exception (Tr. 69) because it "would be an
improvement" (Tr. 70). It is significant that the position of
the Planning Office is based upon the assumption that the exist-
ing use of the site was authorized (Tr. 70) and did not realise
"there was a possibility to expunge the use" (Tr. 71). The
Planning Office was of the opinion that Section 502 of the Bal-
timore County Zoning Regulations would be satisfied (Tr. 74),
but again this opinion was predicated on the assumption that
the existing use and condition of the site was authorized and
legal.

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A real estate broker called as an expert witness for the
Appellee testified that the land from which the Appellee pur-
chased the site was originally a part of a larger tract of land
sold in November of 1971 for \$1,500 per acre (Tr. 78). The
Appellee purchased the site in the same month for \$4,000 per
acre (Tr. 79). Some of the remaining land in the parcel sold
for as much as \$85,000 per acre", although the tract adjoining
the site sold for \$3,000 per acre in October, 1975, after the
plans of Appellee for the site it purchased were known (Tr. 80).
The expert testified that the proposed expansion would not "affect
the safety, health and well-being of the immediate or general
community" (Tr. 89). His opinion, however, was also predicated
upon the assumption that the existing use is a lawful one
(Tr. 93). Other sales made in the area after the Appellee's
filing a request for expansion were for \$900 per acre (Tr. 108)
and \$1,000 per acre (Tr. 122). Even before the request for
expansion was filed, however, property adjacent to the site
sold for half the price of property separated from the site by
another, larger parcel of land (Tr. 130).

III. Issues Presented.

(a) Whether the proposed expansion satisfies all the appli-
cable criteria and restrictions in the Baltimore County Zoning
Regulations.

(b) Whether the Baltimore County Board of Appeals exceeded
its authority in granting the Special Exception in this case.

(c) Whether the opinions and conclusions of the expert
witness, on which the Baltimore County Board of Appeals relied
in approving the Special Exception, were valid and probative in
light of the erroneous premises on which they were based.

(d) Whether the action of the Baltimore County Board of
Appeals, in approving the Special Exception, was arbitrary,
capricious or unreasonable.

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IV. Argument.

In general, the County Board of Appeals is vested with broad discretion in determining whether applications for Special Exceptions should be granted. This discretion may only be exercised within the statutory and regulatory framework, however, and it may not be exercised in such a manner as to have an adverse effect on property neighbouring that for which a Special Exception is sought, Crowther, Inc. v. Johnson, 225 Md. 379, 383 (1961), and must be supported by substantial evidence, Dundalk Holding Co. v. Horn, 266 Md. 280, 283 (1972); Luxmanor Citizens v. Burkart, 266 Md. 631, 647 (1972).

There are four principal regulatory provisions pertinent to this matter, all contained in the Baltimore County Zoning Regulations. These are: (a) Section 104 - Nonconforming Uses, adopted 30 March 1955; (b) Section 411 - Public Utility Uses; (c) Section 502 - Special Exceptions; and (d) Section 600 - Interpretation, and copies of each, together with other pertinent sections, are attached hereto for the Court's convenience. Not one, but all of these provisions must be given full consideration. Where any provision imposes a limitation, restriction or condition, that limitation, restriction or condition must be satisfied in full before the Board can legally grant any request for a Special Exception.

One need examine the record in this case no further than the Opinion and Order of the County Board of Appeals, as amended, to ascertain that the Baltimore County Zoning Regulations have not been fully complied with. The Board found that "the proposed petition meets the requirements of Section 502.1..." but did not find that it met the requirements of Section 411, which clearly states "[f]or public utility use, permitted only by Special Exceptions in addition to the provisions of Section 502,

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the following regulations shall apply." Indeed, it does not appear that the Board even undertook consideration of the additional requirements of this section. This is an error of law which, with nothing further, requires a reversal of the Board's decision.

Section 411 of the Baltimore County Zoning Regulations requires that before any public utility use permitted only by Special Exception can be allowed, the applicant must show that "the use must be needed for the proper rendition of the public utility's service...." More must be shown, in other words, than that the Special Exception will not have an adverse effect on neighboring property, (although the undisputed evidence in this case shows beyond any doubt that the use to which Appellee puts the Long Green site has already adversely affected neighbouring property.) The evidence in this case indicates that the facility could be located elsewhere, but that the Appellee prefers to have it at the Long Green site for reasons of alleged efficiency and convenience. Although the phrase "must be needed for the proper rendition of the public utility's service" is not defined in the Regulations, and may be susceptible to more than one construction, in zoning cases "need" and "necessary" are not equated with "convenience" and "efficiency". We submit that with the requirement that public utility uses permitted only by Special Exceptions be shown to be "needed", the Regulations require that the need for the use in the particular area be shown to be sufficiently great to overcome the regulatory objections and restrictions to having comparable non-public utility uses in the same area. From the testimony and photographic exhibits, the Long Green facility is in fact a contractor's equipment storage yard. Referring to the Regulations, Section 270 - Schedule of Special Exceptions, we see that

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contractor's equipment storage yards are not permitted, even by Special Exception, in any residential zone. They are permitted in B.R. (Business, Roadsides) zones by Special Exception, and they are permitted in light and heavy manufacturing zones (M.L., M.H.), only. If the Appellee were anything but a public utility, therefore, this application for a Special Exception would not even be considered. The County Council seems to recognize, however, that in some instances a public utility must use certain land in ways absolutely forbidden to others, or the public utility would not be able to provide the services the community requires. Accordingly, when such a use is needed and essential for the rendering of service to the area in which the facility is located, a Special Exception may be granted, within absolute conditions and restrictions contained elsewhere in the Regulations. The Long Green facility is a maintenance facility, and not for the area in which it is located, but for the entire Central Maryland area served by the Appellee. The only reasons given for requesting this Special Exception are for efficiency and convenience. There has been no attempt to show this facility is "needed for the proper rendition of the public utility's service", in the area in which located, particularly in light of the absolute prohibition of equivalent facilities owned by private entities in residential areas. The granting of this Special Exception was therefore arbitrary, and exceeded the authority of the Board, and must be reversed.

An additional error of law was committed in granting the Appellee's request. Section 600 of the Baltimore County Zoning Regulations imposes strict interpretative guidelines and requires the greatest "restrictions imposed by any law, ordinance, regulation, or private agreement" to be controlling, regardless of any other, less stringent set of restrictions that might otherwise

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be applicable under the Regulations. We respectfully submit that, as a minimum, this provision of the Regulations must, inter alia, require satisfaction of the strictest standards of the Regulations applicable to the Appellee's request. From the evidence in this case, it appears there is no dispute that use of the property as a storage and service centre is a non-conforming use. (The property has been used as such to some extent apparently since 1910, and there were no zoning regulations in Baltimore County at that time.) Section 104 of the Regulations provides that: "No non-conforming building or structure and no non-conforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the buildings so used." [emphasis supplied] By applying the less stringent restrictions found elsewhere in the Regulations, therefore, in granting the Appellee's request, the Board has not only ignored the restriction found in Section 104, but has in fact violated it, and has exceeded its authority.

It has long been settled that a "non-conforming use is not a perpetual easement to make use of one's property detrimental to his neighbor's and forbidden to them." Dorman v. Mayor and City Council of Baltimore, 187 Md. 678, 684 (1947). In Baltimore City, as in Baltimore County and most other jurisdictions, the zoning regulations contain restrictions as to the extension of non-conforming uses, and in light of these restrictions, the Court of Appeals has consistently held that the power to extend non-conforming uses must be strictly construed, that the spirit and intent of the regulations is against extension of non-conforming uses, and that non-conforming uses can only be expanded in accordance with statutory and regulatory authority. For example, see Colati v. Jirout, 186 Md. 652, 657-659 (1945). At page 657, speaking through Judge Delaplaine, the Court said:

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and the ordinance limited all such expansions to 35%. The expansion was also proposed too late under another limitation in the ordinance. The Court went on to say:

There is a separate section (Section 20.47) which authorizes the Board to grant variances, and upon which the appellee relies. However, we think the Board exceeded its power in authorizing the variance, even though it attached to the variance four conditions which it thought would bring the addition within the standards which are set, found in Section 20.42 of the zoning ordinance, so that it would not adversely affect the public health, safety and welfare. The various powers of the Board enumerated in the ordinance must be read together, and we do not think the Board could do under the variance provision what it manifestly could not do under the non-conforming use section (Section 20.462 previously dealt with). (235 Md. at 394)

Accord St. Clair v. Colonial Pipeline Company, 235 Md. 578 (1964); and Smith v. Miller, 249 Md. 390 (1968). In both of these cases, there was more than one applicable zoning ordinance provision, and in each case, application of one provision would prohibit the use proposed, while application of another would permit the use under certain conditions. In both cases, the zoning board felt the conditions were satisfied, and decided to permit the proposed use, and the Circuit Court affirmed. In both cases, the Court of Appeals reversed, saying in effect that the zoning ordinance must be read as a whole, and if any provision prohibits a particular use, whether expressly or by implication, then the zoning board exceeds its authority by permitting the proposed use under another, more permissive provision. When the zoning board thus exceeds its authority, these cases hold, then as a matter of law it acts arbitrarily and capriciously, and in excess of its authority, and its decision must be set aside.

The Appellee requested in 1968 and was granted in 1969 permission to erect a building at the Long Green facility which as noted previously exists by virtue of a non-conforming

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use. It may well be that such permission was illegally or improperly granted. There can be no dispute that such permission was inadvisably granted. The same regulatory restrictions applicable herein were in effect in 1969. Presumably, therefore, Sections 502 and 411 should have been satisfied, and it must have been shown that construction of the building did not constitute an expansion of the non-conforming use by more than 25%. If these conditions were not satisfied before granting the Special Exception in 1969, then that action was a fortioriori illegal. If it were illegal, the Board compounds its error by granting the present request for special exception, and a prior error of law must not be allowed to be extended.

Since construction of the Appellee's building, evidently before 19 July 1969, the uncontroverted evidence in this case shows that the following has occurred:

- (1) Storage of material has increased substantially, 30% to 40% by one estimate, and continues to increase;
- (2) Traffic in and out of the site has roughly doubled, and the number of employees increased from a handful to twenty-six;
- (3) Roads leading to and from the facility have become significantly congested as a result of the traffic it generates, particularly at times when children are waiting for school buses and others are attempting to drive to work;
- (4) Values of property adjacent to a site are approximately half of similar property in the area protected, removed or screened from the site;
- (5) High power mercury vapour lights have been installed, generating enough power to light an area far greater than the site itself at night, and remaining lighted continuously during darkness;

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(6) Operations formerly run out of the Petitioner's Monument Street facility have been consolidated and are now run out of the Long Green facility; and

(7) Whereas the Petitioner's employees formerly reported directly to job sites, they now all report to the Long Green facility and depart from there to job sites.

Assuming, arguendo, that in 1969 the appropriate authorities were satisfied the construction of the building then authorised would comply with Sections 411 and 502, thereby permitting the Special Exception therefor to be issued, the history of this facility has shown, beyond any doubt, that the expectation has not been realised. If granting the prior special exception in 1969 was legal, in retrospect it was nevertheless inadvisable and unreasonable. The Appellee does not deny that use of the facility has increased, nor does it deny future increases will occur (although it claims that increases in the immediate future will be small). Undaunted, the Appellee now seeks to increase the size of its operation substantially, to perpetuate the present use, to increase the present use and to make the use more convenient for the Appellee.

Little has been made by the Board of the previously accomplished expansion of the facility's use and the detrimental effect that expansion has had on the general welfare of the locality, the congestion of roads in the area and the adverse effect on property values. If construction of one building at the facility has had these results, what can reasonably be expected if the size of the facility is doubled? Especially since assurances of limited future growth are made only with respect to the near future does the granting of this special exception seem arbitrary, unreasonable, improper and inadvisable in the extreme.

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It is generally accepted that a few nonconforming buildings and uses, allowed to continue as exceptions to the regulations in order to avoid injustice, will not be a substantial injury to the community if they are not allowed to multiply where they are harmful or improper, but non-conforming uses should not be perpetuated any longer than necessary, and the zoning Board should make constant efforts to move them into the use districts where they properly belong. Bassett on Zoning, 106, 109.

Similarly, Arundel Corporation v. Board, 255 Md. 78 (1969), at page 84, the Court declared that "...the policy of zoning regulations is to restrict rather than increase any non-conforming uses. Minor v. Shifflett, 252 Md. 158, 249 A.2d 159 (1969); Schiff v. Board of Zoning Appeals, 207 Md. 365, 114 A.2d 644 (1955); City of Baltimore v. Byrd, 191 Md. 632, 62 A.2d 588 (1948)." Thus, the Board herein manifestly violated not only the letter but also the spirit of the Regulations which it is required to follow and enforce, by granting the Appellee's request for permission to roughly double the size of the Long Green facility.

The Court of Appeals has construed at least one non-conforming use provision in a zoning ordinance and held that the non-conforming use provision, being more restrictive than other provisions, was controlling over the other provisions. In Kenyon v. Board of Zoning Appeals of Harford County, 235 Md. 388 (1964), the Board granted a variance, subject to four conditions intended to protect the health, safety and general welfare of neighbours, to permit an expansion of a non-conforming use which had outgrown the owner's property. The expansion would have remedied an illegal expansion of the use, and would have permitted cleaning up an unsightly mess. But the proposal exceeded the amount of expansion permitted under the non-conforming use provision. The Circuit Court for Harford County affirmed, but the Court of Appeals reversed, stating that the expansion would increase the area subject to a non-conforming use by 62%,

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"Arbitrary" is defined by Black's Law Dictionary as being "without adequate determining principle; not founded in the nature of things; nonrational; not done or acting according to reason or judgment;...Without fair, solid and substantial cause; that is, without cause based upon the law...not governed by any fixed rules or standard." Since mandatory provisions of the Baltimore County Zoning Regulations applicable to the Special Exception sought here have not even been taken into consideration by the Board, the Board's action is, as a matter of law, arbitrary and must be set aside. The Board's action also defies all reason, in view of the history of the Long Green facility. In *Heaps v. Cobb*, 185 Md. 372, 378 (1945) the Court of Appeals adopted a definition of the Supreme Court: "As stated by the Supreme Court in the *Chicago Junction Case*, 264 U.S. 258, 44 S.Ct. 317, 320, 68 L.Ed. 667, 'To refuse to consider evidence introduced or to make an essential finding without supporting evidence is arbitrary action.'" The Board's opinion indicates it weighed the Protestants' fears of future deterioration to the area, but makes no mention of the deterioration of the area already produced by the facility. Furthermore, the testimony on which the Board based its findings that there would be no adverse effects to neighbouring property values, and that the criteria of Section 502.1 of the Baltimore County Zoning Regulations would be satisfied, is invalid because it was based on an erroneous assumption made by both expert witnesses. By any definition, the Board has acted in an arbitrary fashion and its action must be set aside.

The Appellee's argument would seem to be thus: use of the Long Green facility was sanctioned by a prior Special Exception; operations there have outgrown the facility's present size; and it is in the interest of all concerned that permission be granted

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to increase the facility's size. The argument is based on the propriety of the present use of the facility, and the propriety of continuing that use at the same or a greater level, and ignores the fact that the prior Special Exception was for the construction of a building, nothing more. Even assuming that the granting of the Special Exception in 1969 was proper, and that the ensuing expansion of the facility was authorised by that Special Exception, it can not be seriously contended that expansion of the facility has not already been detrimental to the area in numerous respects. The test must be whether the currently proposed expansion of the facility satisfies Sections 502 and 411 in light of the nature and conditions of the Long Green facility prior to the 1969 Special Exception. Perhaps an even more appropriate test should be whether the proposed expansion satisfies the Regulations as compared with the absence of any such facility in the area, since it exists by virtue of a non-conforming use at the outset. As the Court of Appeals stated the rule, in *Easter v. City of Baltimore*, 195 Md. 295, 400-401 (1950),

Prior exceptions granted by the adjustment board are not in themselves controlling. If advised or illegal variances do not furnish grounds for a repetition of the wrong. If that were not so, one variation would sustain if it did not compel others, and thus the general regulation eventually would be nullified. The annulment of zoning is a legislative function that is beyond the domain of the zoning board.

In the case of non-conforming uses, the ordinance tolerates their continuance, but looks towards their ultimate elimination. *Colati v. Jirout*, supra. The same principle applies to special exceptions. *Heath v. Mayor and City Council of Baltimore*, supra. (190 Md. 478, 58 A.2d 896)

Other cases in accord include: *Dorsey Enterprises v. Shpak*, 219 Md. 16, 23 (1959); *Park Shopping v. Lexington Park*, 216 Md. 271, 276 (1958); *Marino v. City of Baltimore*, 215 Md. 206, 220 (1957).

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The Appellee has transformed an inconspicuous non-conforming use into a massive, objectionable storage and service facility, and it now seeks to more than double the area used for this purpose, so that its use of the facility will be more convenient.

Witnesses for the Appellee testified that if this Special Exception were denied, it would be necessary to use a second location for additional material. If nothing else, this forcefully demonstrates that there will be significant increase in the storage of materials at the site at some time in the future. The Appellee already owns, however, at least one alternative site that is of ample size for the entire Long Green facility, not just its overflow. According to other testimony for the Appellee, it now owns considerable acreage in an industrial area, of which less than one-half is presently being used and for the balance of which no plans have yet been made. It is in industrial areas that facilities such as the one involved herein actually belong, and the Regulations so contemplate by prohibiting absolutely the establishment of such facilities, in any residential areas, by any entity other than a public utility (see Section 270 of the Regulations).

In reviewing the evidence for granting the Appellee's request, a very important qualification must be given careful consideration, and that qualification is the acknowledgement by each expert witness that, in concluding the proposed expansion was not objectionable or violative of any of the Regulations, he assumed the present use of the facility was legal and proper. None had considered the advisability of the proposed expansion in light of the facility's use prior to 1969; or, assuming the 1969 Special Exception authorised a greater or expanded use thereafter (which does not appear to be so from the evidence and the law in this case), none had considered

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the advisability of the proposed expansion in light of the increased use conceivably authorised by the 1969 Special Exception. In point of fact, as shown in the photographic and other exhibits in this case, the Appellee is now storing material on land which was never used for that purpose before 1969, and which land has never been the subject of any request for any Special Exception. Thus, giving the Appellee every benefit of the doubt, the probative value of the expert testimony in its favour is nil because it is based on a fundamental premise of legality which was incorrect and misleading. Since the Board's action was based on expert testimony which was in turn based on inaccurate assumptions, the Board's action is therefore invalid, and must be reversed.

In *Montgomery County v. Merlands Club*, 202 Md. 279 (1953), the Circuit Court for Montgomery County reversed the decision of the Zoning Board because it was based on an erroneous premise. The Court of Appeals affirmed, saying at page 292-293:

We are fully mindful of the fact that the decision of the Board as an administrative body is entitled to the greatest weight and to a real presumption of validity, and with this awareness, we do not substitute our judicial judgment for the judgment of the administrative authority acting within its powers. As pointed out in *Maryland Advertising Co. v. Mayor and City Council of Baltimore*, supra, 199 Md. at 222, 86 A.2d at 193, this duty is no more imperative than the power and duty to set aside any purported exercise of such power, which is in fact arbitrary, capricious or confiscatory. Zoning in this respect can no more escape judicial review than any other purported exercise of the police power. We find here that the action of the Board, based on an incorrect legal premise and unsupported by substantial evidence, if any, was arbitrary and capricious in a legal sense, and so, invalid. We agree with the Court below that "...the Board's decision is based upon an erroneous interpretation of our ordinance and does not conform to the facts."

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In the instant case, there are at least two distinct incidents of an "incorrect legal premise" influencing the Board's decision: first, the obvious assumption that only Section 502 of the Regulations need be satisfied, thereby ignoring Sections 411 and 104 altogether; and second, the reliance of the Board on expert testimony based on an erroneous assumption, which in addition to constituting an "incorrect legal premise", renders the Board's decision one which does not conform to the facts. Either error standing alone would impose on this Court the duty to set aside the Board's decision.

WHEREFORE, because the proposed expansion does not meet all of the criteria and restrictions of the Baltimore County Zoning Regulations, because the Baltimore County Board of Appeals exceeded its authority, because the opinions and conclusions of the expert witnesses were based on incorrect legal premises, the action of the Board was arbitrary and capricious in the legal sense, and must be reversed.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 1976, copies of the foregoing Memorandum were mailed to: John B. Howard, Esquire, 409 Washington Avenue, Towson, Maryland 21204 and W. E. Colburn, Esquire, Baltimore Gas and Electric Company, Baltimore, Maryland 21203, Attorneys for Baltimore Gas and Electric Company; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092; John W. Hessian, III, Esquire, Peoples' Counsel, County Office Building, Towson, Maryland 21204; Mr. S. Eric DiNenna, Zoning Commissioner, and Mr. James E. Dyer, County Office Building, Towson, Maryland 21204; Mr. W. D. Fromm, Director of Planning, and Mr. J. Hoswell, Office of Planning, County Office Building, Towson, Maryland 21204; and Edith T. Eisenhart, Administrative Secretary, County Board of Appeals, Room 219, Court House, Towson, Maryland 21204.

Jay V. Strong, Jr.

Section 600—INTERPRETATION [B.C.Z.R., 1955.]

In their interpretation and application, these Regulations shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, and general welfare. Where these Regulations impose a greater restriction on the use of buildings or land or on the height of buildings, or require larger yards, setbacks, or other open spaces, or impose other higher standards than are imposed by the provisions of any law, ordinance, regulation or private agreement, these Regulations shall control. When greater restrictions are imposed by any law, ordinance, regulation, or private agreement than are required by these Regulations, such greater restrictions shall not be affected by these Regulations. [B.C.Z.R., 1955.]

Section 102—GENERAL REQUIREMENTS [B.C.Z.R., 1955.]

102.1—No land shall be used or occupied and no building or structure shall be erected, altered, located, or used except in conformity with these regulations and this shall include any extension of a lawful nonconforming use. [B.C.Z.R., 1955.]

Section 104—NONCONFORMING USES [B.C.Z.R., 1955.]

104.1—A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75) per cent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. [B.C.Z.R., 1955.]

ARTICLE 1A—RURAL AND RURAL-SUBURBAN LOW-INTENSITY ZONES [Bill No. 100, 1970.]

Section 1A00—R.D.P. ZONES (RURAL DEFERRED PLANNING). [Bill No. 100, 1970.]

1A00.1—General Provisions. [Bill No. 100, 1970.]

1. Purpose. The R.D.P. zoning classification is established, pursuant to the legislative findings set forth above, in order to:
 - a. Prevent untimely urban development of relatively open rural lands; and
 - b. Foster conditions favorable to agriculture and other low-intensity uses appropriate in rural areas, considering both the magnitude of total land acreage needed for such uses and the current prospective needs for developable urban land.
- [Bill No. 100, 1970.]

Section 307—VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. [B.C.Z.R., 1955; Bill No. 107, 1963.]

1. Apparently conflicts with Article 11 of Title 22, Baltimore County Code 1968 as amended (Appendix D), which prescribes requirements with respect to notice and hearing regarding conventional reclassification petitions that differ from those which it prescribes regarding variance petitions. (See Section 22-26 of the same article for provision regarding conflicts between Title 22 and the Zoning Regulations.)

Section 411—PUBLIC UTILITY USES [B.C.Z.R., 1955.]

For public utility uses permitted only by Special Exceptions in addition to the provisions of Section 302, the following regulations shall apply: [B.C.Z.R., 1955.]

411.1—The use must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of neighboring property. [B.C.Z.R., 1955.]

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 Zoning Commissioner. [B.C.Z.R., 1955.]

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(See Section 270—Schedule of Special Exceptions) [B.C.Z.R., 1955.]

NOTE: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junk yards, are inherently so objectionable as to make extra regulations and controls advisable even in the M.H. Zone, to which they are restricted. Others, like a cemetery, do not fit into any of the zone categories, that is, residential, business, and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as Special Exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the Board of Zoning Appeals. [B.C.Z.R., 1955.]

In granting any Special Exception, the Zoning Commissioner and the Board of Zoning Appeals, upon appeal, shall be governed by the following principles and conditions. [B.C.Z.R., 1955.]

502.1—Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not: [B.C.Z.R., 1955.]

- Be detrimental to the health, safety, or general welfare of the locality involved; [B.C.Z.R., 1955.]
- Tend to create congestion in roads, streets or alleys therein; [B.C.Z.R., 1955.]
- Create a potential hazard from fire, panic or other dangers; [B.C.Z.R., 1955.]
- Tend to overcrowd land and cause undue concentration of population; [B.C.Z.R., 1955.]
- Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; [B.C.Z.R., 1955.]
- Interfere with adequate light and air. [B.C.Z.R., 1955.]

502.2—In granting any Special Exception, the Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a Special Exception is granted, if required by the Zoning

1. Superseded by County Board of Appeals—see note 1, Section 401.
2. Superseded by County Board of Appeals—see note 1, Section 401.
3. Superseded by County Board of Appeals—see note 1, Section 401.

Commissioner, or Board of Zoning Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, the same to be recorded among the Land Records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such Special Exception. When so recorded, said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer. [B.C.Z.R., 1955.]

Section 270—SCHEDULE OF SPECIAL EXCEPTIONS (See Section 502.1)

S.E., the permitted by Special Exception only; X, the prohibited by Special Exception.

USE	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	R-10	R-11	R-12	R-13	R-14	R-15	R-16	R-17	R-18	R-19	R-20	R-21	R-22	R-23	R-24	R-25	R-26	R-27	R-28	R-29	R-30	R-31	R-32	R-33	R-34	R-35	R-36	R-37	R-38	R-39	R-40	R-41	R-42	R-43	R-44	R-45	R-46	R-47	R-48	R-49	R-50	R-51	R-52	R-53	R-54	R-55	R-56	R-57	R-58	R-59	R-60	R-61	R-62	R-63	R-64	R-65	R-66	R-67	R-68	R-69	R-70	R-71	R-72	R-73	R-74	R-75	R-76	R-77	R-78	R-79	R-80	R-81	R-82	R-83	R-84	R-85	R-86	R-87	R-88	R-89	R-90	R-91	R-92	R-93	R-94	R-95	R-96	R-97	R-98	R-99	R-100	R-101	R-102	R-103	R-104	R-105	R-106	R-107	R-108	R-109	R-110	R-111	R-112	R-113	R-114	R-115	R-116	R-117	R-118	R-119	R-120	R-121	R-122	R-123	R-124	R-125	R-126	R-127	R-128	R-129	R-130	R-131	R-132	R-133	R-134	R-135	R-136	R-137	R-138	R-139	R-140	R-141	R-142	R-143	R-144	R-145	R-146	R-147	R-148	R-149	R-150	R-151	R-152	R-153	R-154	R-155	R-156	R-157	R-158	R-159	R-160	R-161	R-162	R-163	R-164	R-165	R-166	R-167	R-168	R-169	R-170	R-171	R-172	R-173	R-174	R-175	R-176	R-177	R-178	R-179	R-180	R-181	R-182	R-183	R-184	R-185	R-186	R-187	R-188	R-189	R-190	R-191	R-192	R-193	R-194	R-195	R-196	R-197	R-198	R-199	R-200	R-201	R-202	R-203	R-204	R-205	R-206	R-207	R-208	R-209	R-210	R-211	R-212	R-213	R-214	R-215	R-216	R-217	R-218	R-219	R-220	R-221	R-222	R-223	R-224	R-225	R-226	R-227	R-228	R-229	R-230	R-231	R-232	R-233	R-234	R-235	R-236	R-237	R-238	R-239	R-240	R-241	R-242	R-243	R-244	R-245	R-246	R-247	R-248	R-249	R-250	R-251	R-252	R-253	R-254	R-255	R-256	R-257	R-258	R-259	R-260	R-261	R-262	R-263	R-264	R-265	R-266	R-267	R-268	R-269	R-270	R-271	R-272	R-273	R-274	R-275	R-276	R-277	R-278	R-279	R-280	R-281	R-282	R-283	R-284	R-285	R-286	R-287	R-288	R-289	R-290	R-291	R-292	R-293	R-294	R-295	R-296	R-297	R-298	R-299	R-300	R-301	R-302	R-303	R-304	R-305	R-306	R-307	R-308	R-309	R-310	R-311	R-312	R-313	R-314	R-315	R-316	R-317	R-318	R-319	R-320	R-321	R-322	R-323	R-324	R-325	R-326	R-327	R-328	R-329	R-330	R-331	R-332	R-333	R-334	R-335	R-336	R-337	R-338	R-339	R-340	R-341	R-342	R-343	R-344	R-345	R-346	R-347	R-348	R-349	R-350	R-351	R-352	R-353	R-354	R-355	R-356	R-357	R-358	R-359	R-360	R-361	R-362	R-363	R-364	R-365	R-366	R-367	R-368	R-369	R-370	R-371	R-372	R-373	R-374	R-375	R-376	R-377	R-378	R-379	R-380	R-381	R-382	R-383	R-384	R-385	R-386	R-387	R-388	R-389	R-390	R-391	R-392	R-393	R-394	R-395	R-396	R-397	R-398	R-399	R-400	R-401	R-402	R-403	R-404	R-405	R-406	R-407	R-408	R-409	R-410	R-411	R-412	R-413	R-414	R-415	R-416	R-417	R-418	R-419	R-420	R-421	R-422	R-423	R-424	R-425	R-426	R-427	R-428	R-429	R-430	R-431	R-432	R-433	R-434	R-435	R-436	R-437	R-438	R-439	R-440	R-441	R-442	R-443	R-444	R-445	R-446	R-447	R-448	R-449	R-450	R-451	R-452	R-453	R-454	R-455	R-456	R-457	R-458	R-459	R-460	R-461	R-462	R-463	R-464	R-465	R-466	R-467	R-468	R-469	R-470	R-471	R-472	R-473	R-474	R-475	R-476	R-477	R-478	R-479	R-480	R-481	R-482	R-483	R-484	R-485	R-486	R-487	R-488	R-489	R-490	R-491	R-492	R-493	R-494	R-495	R-496	R-497	R-498	R-499	R-500	R-501	R-502	R-503	R-504	R-505	R-506	R-507	R-508	R-509	R-510	R-511	R-512	R-513	R-514	R-515	R-516	R-517	R-518	R-519	R-520	R-521	R-522	R-523	R-524	R-525	R-526	R-527	R-528	R-529	R-530	R-531	R-532	R-533	R-534	R-535	R-536	R-537	R-538	R-539	R-540	R-541	R-542	R-543	R-544	R-545	R-546	R-547	R-548	R-549	R-550	R-551	R-552	R-553	R-554	R-555	R-556	R-557	R-558	R-559	R-560	R-561	R-562	R-563	R-564	R-565	R-566	R-567	R-568	R-569	R-570	R-571	R-572	R-573	R-574	R-575	R-576	R-577	R-578	R-579	R-580	R-581	R-582	R-583	R-584	R-585	R-586	R-587	R-588	R-589	R-590	R-591	R-592	R-593	R-594	R-595	R-596	R-597	R-598	R-599	R-600	R-601	R-602	R-603	R-604	R-605	R-606	R-607	R-608	R-609	R-610	R-611	R-612	R-613	R-614	R-615	R-616	R-617	R-618	R-619	R-620	R-621	R-622	R-623	R-624	R-625	R-626	R-627	R-628	R-629	R-630	R-631	R-632	R-633	R-634	R-635	R-636	R-637	R-638	R-639	R-640	R-641	R-642	R-643	R-644	R-645	R-646	R-647	R-648	R-649	R-650	R-651	R-652	R-653	R-654	R-655	R-656	R-657	R-658	R-659	R-660	R-661	R-662	R-663	R-664	R-665	R-666	R-667	R-668	R-669	R-670	R-671	R-672	R-673	R-674	R-675	R-676	R-677	R-678	R-679	R-680	R-681	R-682	R-683	R-684	R-685	R-686	R-687	R-688	R-689	R-690	R-691	R-692	R-693	R-694	R-695	R-696	R-697	R-698	R-699	R-700	R-701	R-702	R-703	R-704	R-705	R-706	R-707	R-708	R-709	R-710	R-711	R-712	R-713	R-714	R-715	R-716	R-717	R-718	R-719	R-720	R-721	R-722	R-723	R-724	R-725	R-726	R-727	R-728	R-729	R-730	R-731	R-732	R-733	R-734	R-735	R-736	R-737	R-738	R-739	R-740	R-741	R-742	R-743	R-744	R-745	R-746	R-747	R-748	R-749	R-750	R-751	R-752	R-753	R-754	R-755	R-756	R-757	R-758	R-759	R-760	R-761	R-762	R-763	R-764	R-765	R-766	R-767	R-768	R-769	R-770	R-771	R-772	R-773	R-774	R-775	R-776	R-777	R-778	R-779	R-780	R-781	R-782	R-783	R-784	R-785	R-786	R-787	R-788	R-789	R-790	R-791	R-792	R-793	R-794	R-795	R-796	R-797	R-798	R-799	R-800	R-801	R-802	R-803	R-804	R-805	R-806	R-807	R-808	R-809	R-810	R-811	R-812	R-813	R-814	R-815	R-816	R-817	R-818	R-819	R-820	R-821	R-822	R-823	R-824	R-825	R-826	R-827	R-828	R-829	R-830	R-831	R-832	R-833	R-834	R-835	R-836	R-837	R-838	R-839	R-840	R-841	R-842	R-843	R-844	R-845	R-846	R-847	R-848	R-849	R-850	R-851	R-852	R-853	R-854	R-855	R-856	R-857	R-858	R-859	R-860	R-861	R-862	R-863	R-864	R-865	R-866	R-867	R-868	R-869	R-870	R-871	R-872	R-873	R-874	R-875	R-876	R-877	R-878	R-879	R-880	R-881	R-882	R-883	R-884	R-885	R-886	R-887	R-888	R-889	R-890	R-891	R-892	R-893	R-894	R-895	R-896	R-897	R-898	R-899	R-900	R-901	R-902	R-903	R-904	R-905	R-906	R-907	R-908	R-909	R-910	R-911	R-912	R-913	R-914	R-915	R-916	R-917	R-918	R-919	R-920	R-921	R-922	R-923	R-924	R-925	R-926	R-927	R-928	R-929	R-930	R-931	R-932	R-933	R-934	R-935	R-936	R-937	R-938	R-939	R-940	R-941	R-942	R-943	R-944	R-945	R-946	R-947	R-948	R-949	R-950	R-951	R-952	R-953	R-954	R-955	R-956	R-957	R-958	R-959	R-960	R-961	R-962	R-963	R-964	R-965	R-966	R-967	R-968	R-969	R-970	R-971	R-972	R-973	R-974	R-975	R-976	R-977	R-978	R-979	R-980	R-981	R-982	R-983	R-984	R-985	R-986	R-987	R-988	R-989	R-990	R-991	R-992	R-993	R-994	R-995	R-996	R-997	R-998	R-999	R-1000	R-1001	R-1002	R-1003	R-1004	R-1005	R-1006	R-1007	R-1008	R-1009	R-1010	R-1011	R-1012	R-1013	R-1014	R-1015	R-1016	R-1017	R-1018	R-1019	R-1020	R-1021	R-1022	R-1023	R-1024	R-1025	R-1026	R-1027	R-1028	R-1029	R-1030	R-1031	R-1032	R-1033	R-1034	R-1035	R-1036	R-1037	R-1038	R-1039	R-1040	R-1041	R-1042	R-1043	R-1044	R-1045	R-1046	R-1047	R-1048	R-1049	R-1050	R-1051	R-1052	R-1053	R-1054	R-1055	R-1056	R-1057	R-1058	R-1059	R-1060	R-1061	R-1062	R-1063	R-1064	R-1065	R-1066	R-1067	R-1068	R-1069	R-1070	R-1071	R-1072	R-1073	R-1074	R-1075	R-1076	R-1077	R-1078	R-1079	R-1080	R-1081	R-1082	R-1083	R-1084	R-1085	R-1086	R-1087	R-1088	R-1089	R-1090	R-1091	R-1092	R-1093	R-1094	R-1095	R-1096	R-1097	R-1098	R-1099	R-1100	R-1101	R-1102	R-1103	R-1104	R-1105	R-1106	R-1107	R-1108	R-1109	R-1110	R-1111	R-1112	R-1113	R-1114	R-1115	R-1116	R-1117	R-1118	R-1119	R-1120	R-1121	R-1122	R-1123	R-1124	R-1125	R-1126	R-1127	R-1128	R-1129	R-1130	R-1131	R-1132	R-1133	R-1134	R-1135	R-1136	R-1137	R-1138	R-1139	R-1140	R-1141	R-1142	R-1143	R-1144	R-1145	R-1146	R-1147	R-1148	R-1149	R-1150	R-1151	R-1152	R-1153	R-1154	R-1155	R-1156	R-1157	R-1158	R-1159	R-1160	R-1161	R-1162	R-1163	R-1164	R-1165	R-1166	R-1167	R-1168	R-1169	R-1170	R-1171	R-1172	R-1173	R-1174	R-1175	R-1176	R-1177	R-1178	R-1179	R-1180	R-1181	R-1182	R-1183	R-1184	R-1185	R-1186	R-1187	R-1188	R-1189	R-1190	R-1191	R-1192	R-1193	R-1194	R-1195	R-1196	R-1197	R-1198	R-1199	R-1200	R-1201	R-1202	R-1203	R-1204	R-1205	R-1206	R-1207	R-1208	R-1209	R-1210	R-1211	R-1212	R-1213	R-1214	R-1215	R-1216	R-1217	R-1218	R-1219	R-1220	R-1221
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RE: PETITION FOR SPECIAL EXCEPTION
for the enlargement of an existing
public utility storage yard
N/4 Long Green Road 4000 Ft.
West of Long Green Pike
11th District
Baltimore Gas and Electric Company
Petitioner - Appellee
Zoning File No. 75-242-X
Edward L. Stanton, Jr.
Protestant - Appellant

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Misc. Docket No. 10
Folio No. 261
File No. 6019

REPLY MEMORANDUM OF FACT AND LAW

STATEMENT OF THE CASE

This is an Appeal from an Order of the Board of Appeals for Baltimore County dated August 4, 1976, and Amended Order dated August 31, 1976, granting the Appellee (Baltimore Gas and Electric Company) a special exception (subject to certain conditions and restrictions) authorizing the enlargement of its existing public utility storage yard located on the north side of Long Green Road, approximately 4,000 feet west of Long Green Pike, in the Eleventh Election District of Baltimore County.

QUESTION PRESENTED

Was there substantial evidence in the record from which the Baltimore County Board of Appeals could have fairly found that all of the regulatory requirements for a public utility special exception had been satisfied?

STATEMENT OF FACTS

In 1955, the Appellee purchased the Long Green storage facility from the Susquehanna Transmission Company, which had established the facility in 1910 (T. 12, 13). The said facility is the headquarters for employees involved in the construction and maintenance of the Appellee's transmission line system and is used for the storage of materials, equipment and vehicles in connection therewith. The Appellee's entire overhead transmission system consisting of approximately 726 centerline circuit miles of transmission, covering an area of 2,300 square miles, is maintained from this facility (T. 9, 10). The facility is situated approximately in the geographic center of the Appellee's transmission

system, except for that portion of the system extending in a southerly direction from the Appellee's Waugh Chapel substation located in Anne Arundel County to its Calvert Cliffs generating plant located in Calvert County as shown on Appellee's Exhibit No. 1 (T. 11, 12). At the time the said facility was purchased, it occupied approximately 4,125 acres of land and was improved with a large brown shingle farm house, a concrete block building, a metal shed, and two sets of overhead transmission towers erected along the eastern portion of the property.

In 1968 when the Appellee proposed to construct a new metal storage shed on the existing site, it filed a petition for a special exception, requesting a public utility service center on a 2.28 acre parcel of land, being a portion of the original tract of land, excluding the area under the overhead transmission lines. On the 22nd day of May, 1968, the Deputy Zoning Commissioner of Baltimore County granted the request (T. 143).

In 1977, the Appellee purchased an additional parcel of land containing 3.896 acres adjacent to and abutting the eastern property line of the existing facility. The additional acreage was acquired in order to rearrange the outside storage for a more efficient operation in the handling and storing of the Appellee's material (T. 13, 14).

Presently, 26 of the Appellee's employees are assigned to the facility. However, not all report to the facility each day; on frequent occasions, they report directly to the job site (T. 38). Except under emergency situations the employees work one shift per day (7:30 a.m. to 4:00 p.m.), five days per week (T. 33-37). Normally, two employees remain on the premises during the work day, and the remaining employees leave the facility, between 7:30 a.m. and 8:00 a.m., in Company vehicles and report to their respective job sites (T. 16, 125). Approximately 13 Company vehicles are garaged at the site, consisting of 7-3/4 ton pickup trucks, 2 Bronco Jeeps, 1 crane truck, 1 utility truck, 1 line truck and 1 convey lift (T. 34). The material stored at the site consists of steel members for transmission towers, reels of wire, insulators and various components needed in the maintenance, construction and inspection of transmission lines and towers (T. 34, 35). Public water and sewer are unavailable at the site; therefore, the facility

is serviced by well water and septic tank (T. 39). Security is provided to the facility by ADT and eight outside lights consisting of 4 (400 watt) mercury vapor lamps mounted on steel poles and 4 (175 watt) mercury vapor lamps mounted on the buildings (T. 36).

In 1975, the Appellee filed a petition for special exception for the enlargement of its existing facility. The petition covered an area containing 5.68 acres consisting of the parcel of land acquired in 1972 and the area under the existing transmission lines as shown on Appellee's Exhibit No. 3.

At the hearing before the Board of Appeals, the Appellee's witnesses testified that the only new structures to be placed on the property would be concrete piers, 33 inches high, with the top improved to form an H beam rail upon which material would be stored to a height of approximately 6 feet (T. 50). The subject property would also be improved with a 30 foot wide bituminous concrete roadway; however, no new entrance road from the facility onto Long Green Road is planned (T. 49). The property would be effectively screened on three sides by 96 trees, five to six feet high, planted on offset centers (T. 51). The Appellee's witnesses also testified that any increase in the amount of material stored and the number of employees reporting to the facility will be minimal (T. 14). Mr. R. Eszwinie, a civil engineer, testified that the enlargement of the existing facility would not emit any odors, smoke or noise and would not jeopardize the lives and property of the people in the area (T. 51). Mr. Hoswell, a planner with 12 years experience in the Baltimore County Planning Office, testified that the Planning Department would not be opposed to the enlargement of the existing facility and felt that it would be an improvement (T. 69). Mr. MacKenzie, a Real Estate Broker, Consultant and Developer testified that property values in the area are increasing and are fairly consistent with what has occurred in Baltimore County and that the proposed plan of the Appellee would improve the situation to some degree (T. 81, 84).

The Appellant and four witnesses, all residents of the area, none of whom qualified as an expert in any field, testified in opposition to the

granting of the special exception. Their reasons were as follows:

- 1) The use of the existing facility had increased substantially in the last several years, and they were fearful that the enlargement would further increase the use of the facility;
- 2) The facility was changing the character of the neighborhood from a rural/agricultural use to an industrial use;
- 3) Their property would be devalued;
- 4) An increase in the amount of vehicular traffic;
- 5) The proposed grading and paving would create problems with storm water runoff;
- 6) The lighting at the existing facility was a nuisance; and
- 7) The existing facility is unsightly.

The Board of Appeals correctly concluded that the weight of the evidence was with the Appellee's witnesses.

ZONING STATUTES AND REGULATIONS APPLICABLE

The Baltimore County zoning statutes here applicable are found in the 1968 Edition of the Baltimore County Code under Title 22, "Planning, Zoning and Subdivision Control" and for the convenience of the Court are set forth:

Article III - Zoning

"Sec. 22-15. Powers of county.

"For the purpose of promoting health, safety, morals and general welfare of the community, zoning maps and appropriate regulations shall be prepared in the manner hereinafter provided, to regulate and restrict, within the county, the height, number of stories and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards or courts, the setback or distance of any buildings or structures from front or side lot, road, street or alley line and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purpose. Such zoning maps and regulations shall be made in accordance with a comprehensive plan. They shall be designed to reduce congestion in the roads, streets and alleys, to promote safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land to avoid undue concentration of population, to facilitate adequate provision for schools, parks, water, sewerage, transportation and other public requirements, convenience and improvements, including gas and electric structures and facilities.

"Sec. 22-23. Authority of zoning commissioner to provide for special exceptions and variances.

"Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the zoning commissioner may grant variances from area and height regulations and may make special exceptions to the zoning regulations in harmony with their general purpose and intent; provided, that the issuance of all such special exceptions and variances shall be subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning regulations, and that all decisions of the zoning commissioner with respect to such matters shall be subject to appeal to the board of appeals as provided in this article.

"Sec. 22-27. Appeals to county board of appeals.

"Any person or persons, jointly or severally, or any taxpayer or any official, office, department, board or bureau of the county, feeling aggrieved by any decision of the zoning commissioner shall have the right to appeal therefrom to the county board of appeals. Notice of such appeal shall be filed, in writing, with the zoning commissioner within thirty days from the date of any final order appealed from, together with the required fee as provided in the zoning regulations. Such appeals shall be heard and disposed of by the county board of appeals as may be provided in the Charter and the board's own rules of procedure. Any reclassification when granted by the county board of appeals shall, in the absence of an appeal therefrom, have the force and effect of law.

"Sec. 22-28. Appeals from the county board of appeals.

"Appeals from the county board of appeals to the courts may be taken in the manner provided in Article VI of the County Charter."

The applicable provisions of the County Charter respecting appeals to the County Board of Appeals and from it to the courts are contained in Article VI, "County Board of Appeals and Appeal Tax Court", as follows:

"Sec. 602. Powers and functions of county board of appeals.

"The county board of appeals shall have and may exercise the following functions and powers, which are hereby severally transferred from the board of zoning appeals, the board of license appeals and the county commissioners:

"(a) Appeals from orders relating to zoning. The county board of appeals shall have and exercise all the functions and powers of the board of zoning appeals of Baltimore County and of the county board of appeals described in Article 25A of the Annotated Code of Maryland as such functions and powers as may be prescribed from time to time by law. All references in law to the board of zoning appeals shall be construed to refer to the county board of appeals created by this article. . . .

"Sec. 603. Rules of practice and procedure.

"Subject to the approval of the county council, the county board of appeals shall have authority to adopt and amend from time to time rules of practice and procedure to cover the con-

duct of its proceedings. . . . Said rules and regulations when approved by the county council shall have the force and effect of law. All decisions by the county board of appeals shall be made after notice and opportunity for hearing de novo upon the issues before said board. . . .

"Sec. 604. Appeals from decisions of the board.

"Within thirty days after any decision by the county board of appeals is rendered, any party to the proceeding who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for rehearing, as justice may require. . . .

The provisions of the Baltimore County Zoning Regulations presently pertinent are as follows:

"Article 1A - Resource - Conservation Zones

"Section 1A01 - R.C. 2 (Agricultural Zones

"1A01.2 - Use regulations.

"B. Uses permitted as of right. The following uses, only, are permitted as of right in R.C. 2 zones.

". . .

"B. Telephone, telegraph, electrical-power, or other similar lines or cables-all underground; underground gas, water, or sewer mains or storm drains; other underground conduits except underground interstate and intercontinental pipelines.

"C. Uses permitted by special exception. The following uses, only, are permitted by special exception in R.C. 2 zones.

". . .

"18. Public utility uses not permitted as of right including underground interstate and intercontinental pipelines.

"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:

"411.1 - The use must be needed for the proper rendition of the public utility's service and the location thereof shall not seriously impair the use of neighboring property."

"Section 500 - ZONING COMMISSIONER AND/OR DEPUTY ZONING COMMISSIONER

"500.7 - The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the Board of Zoning Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and

notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these Regulations.

"Section 502 - SPECIAL EXCEPTIONS

"NOTE: Certain types of uses are required to secure a permit to allow them to be placed in one or more zones in which their uncontrolled occurrence might cause unsatisfactory results of one kind or another. A few uses, such as dumps and junk yards, are inherently so objectionable as to make extra regulations and controls advisable even in the M.H. Zone, to which they are restricted. Others, like a cemetery, do not fit into any of the zone categories, that is, residential, business, and industrial, and therefore must be located with discrimination in relation to their surroundings. All the items listed are proper uses of land, but have certain aspects which call for special consideration of each proposal. Because under certain conditions they could be detrimental to the health, safety, or general welfare of the public, the uses listed as Special Exceptions are permitted only if granted by the Zoning Commissioner, and subject to an appeal to the Board of Zoning Appeals.

"In granting any Special Exception, the Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall be governed by the following principles and conditions:

"502.1 - Before any Special Exceptions shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets or alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air.

"502.2 - In granting any Special Exception, the Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. . . .

ADJUDICATION

It is not disputed that under the applicable law in Maryland the applicant has the burden of establishing the requirements of the Zoning Ordinance for the granting of a Special Exception. In *Cason v. Board of County Commissioner*, 261 Md. 699 at 707 (1971), the Court of Appeals stated:

"the fact-finding body may properly find that the applicant has met this burden of proof if there is evidence before it which would make the issues 'fairly debatable,' . . ."

Also see:

Board of Co. Comm. for Prince George's Co. v. Oak Hill Farms, Inc., 432 Md. 274 (1963)

THERE WAS SUBSTANTIAL EVIDENCE IN THE RECORD ON WHICH THE BALTIMORE COUNTY BOARD OF APPEALS COULD FIND THAT ALL OF THE REGULATORY REQUIREMENTS FOR A PUBLIC UTILITY SPECIAL EXCEPTION HAD BEEN SATISFIED.

A. Section 502.1 provides, generally, that "before any special exception shall be granted," six specific "principles and conditions" (set forth in full, supra, this Memorandum at Page 7) must be satisfied. All six requisites were satisfied by testimony adduced from Appellee's witnesses.

Mr. James Hoswell, a Planner with 12 years' experience in Baltimore County's Planning Department, was called as a witness for the Appellee and testified that he had reviewed the Appellee's plan to expand the existing facility, had visited the site, was of the opinion that the plan would have no adverse impact on the area, and that it would basically be an improvement (T. 68,69). Mr. Hoswell also testified that he was familiar with Section 502.1 of the Baltimore County Zoning Regulations and, in his judgment, the Appellee's plan had met all the criteria of Section 502.1 (T. 74).

Mr. Clark MacKenzie, a Real Estate Appraiser, Consultant and Developer, a highly qualified Real Estate Expert, testified that he had visited the existing site on many occasions, had reviewed the Appellee's plan in connection with the enlargement and had investigated recent property sales in the immediate area (T. 84). His investigation showed that property values in the area are increasing fairly consistent with what has occurred in Baltimore County generally, and he was of the opinion that the granting of the special exception would not have any adverse effect on property values in the area (T. 81-83). He also testified that the expansion of the

facility would not violate any of the provisions of Section 502.1 of the Baltimore County Zoning Regulations (T. 92, 93).

Mr. Ronald Esmwine, a Civil Engineer, in the Appellee's Electric Engineering Department, testified that no odors, smoke or noise would be emitted from the facility as a result of its enlargement (T. 51); and, in his opinion, the enlargement would not be detrimental to the security or general welfare of persons in the area nor would it jeopardize the lives or property of persons living in the area (T. 51, 52).

Mr. John Benson, General Foreman of the Appellee's Long Green Facility, testified that if the requested enlargement of the facility is granted, there may be a minimal increase in the 26 employees now reporting to the facility. The Board of Appeals, in its order granting the special exception, restricted the Appellee to a total of 28 employees and 28 employees' vehicles regularly reporting to the facility for work assignments the only eliminating any possibility of road congestion resulting from the enlargement.

B. Section 411.1 sets out two additional conditions prerequisite to the granting of a special exception for a public utility use vis:

- (a) "The use must be needed for the proper rendition of the public utility's service and
- (b) the location thereof shall not seriously impair the use of neighboring property."

Mr. William Barkley, Manager of Appellee's Electric Construction Department, who is responsible for the construction and maintenance of all overhead electric transmission lines facilities, testified that the existing facility is the central headquarters from which the Appellee services its entire overhead transmission line system, consisting of approximately 726 center line miles of transmission lines, and that the enlargement of the existing facility is needed in order to rearrange and properly store materials for a more efficient operation. (T. 9, 14)

Appellee is a public utility corporation subject to the jurisdiction of the Public Service Commission of Maryland and to the provisions of

the Public Service Commission Law (Annotated Code of Maryland 1975, Article 78), and is engaged in the manufacture, distribution and sale of electric energy to the public of Baltimore City and nearby Counties. It is required by Section 28 of Article 78 to "furnish instrumentalities, utilities, services and facilities which are safe, adequate, just, reasonable, economical, and efficient, giving consideration to the conservation of natural resources and the quality of the environment." By the same section, it is also required to "charge just and reasonable rates for the utility service rendered by it." (Emphasis added) No one can seriously maintain that the existing facility, utilized for the construction and maintenance of the Appellee's entire overhead transmission line system, and the request to enlarge the same for a more efficient operation, is not needed for the proper rendition of the public utility service.

In the other requirement of Section 411.1, viz, "that the location of the facility shall not seriously impair the use of neighboring properties," it must be pointed out that this condition refers to impairment of the "use" of nearby properties. The Board of Appeals found from the evidence that the enlargement of the existing facility will not:

- a) be detrimental to the health, safety or general welfare of the locality involved;
- b) tend to create congestion in roads, streets or alleys thereof;
- c) create a potential hazard from fire, panic or other dangers;
- d) tend to overcrowd land and cause undue concentration of population;
- e) interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- f) interfere with adequate light and air.

In addition, it found from the evidence that the enlargement will not affect neighboring properties with odors, smoke, or noise nor adversely affect property values in the area. There was ample testimony of qualified experts to support the Board's finding that the enlargement would not seriously impair the "use" of neighboring properties (T. 51, 74, 92, 93).

THE DOCTRINE OF ADMINISTRATIVE FINALITY IS APPLICABLE

The "doctrine of administrative finality" has frequently been applied by the Court of Appeals in zoning cases, and in Missouri Realty, Inc. v. Baser, 215 Md. 442 (1958), Judge Prescott quoted with approval from the case of Offutt v. Board of Zoning Appeals, 204 Md. 551, 942 (1954), the following statement of this rule:

" . . . If there is room for reasonable debate as to whether the facts justified the board, in deciding the need for its action, the decision must be upheld. It is only where there is no room for reasonable debate, or where the record is devoid of supporting facts, that the court is justified in declaring the legislative action of the board arbitrary or discriminatory."

Hardesty v. Board of Zoning Appeals, 211 Md. 172 (1954); Scull v. Coleman, 231 Md. 6 (1968); Shibly v. County Board of Appeals, 269 Md. 177 (1972).

Applying this principle to this Record, there was overwhelming evidence from which the Board could have fairly found that Appellee had fully complied with Sections 502.1 and 411.1 of the Zoning Regulations.

The Appellant argues that the Board of Appeals did not consider the additional requirements of Section 411 of the Baltimore County Zoning Regulations before granting the Appellee a Special Exception for the enlargement of its existing public utility facility, which he alleges is an error of law requiring a reversal of the Board's decision. Admittedly, the Board did not refer specifically to Sec. 411 of the Baltimore County Zoning Regulations in its Order granting the Special Exception; however, a review of the evidence adduced from the Appellee's witnesses shows conclusively that the Appellee met the burden of proof needed to satisfy the prerequisites as set forth in Sec. 411.

In Clarke v. Wolman, 243 Md. 597 (1966), the Court of Appeals had occasion to review a grant of zoning reclassification in the City of Annapolis. The city had adopted a resolution granting petitioner's request for a zone that would permit development of garden apartments. Thereafter, on appeal, the lower court held that the action taken by the city was not arbitrary or capricious, without specifically stating the test applied in reaching

this conclusion (e.g. mistake, change). Further, neither the record extract nor the briefs presented to the Court of Appeals revealed the grounds upon which the city based its resolution. The Court dismissed Appellant's contention that the above invalidated that grant of zoning and stated, at page 604:

"However for the purpose of this appeal, we find it unnecessary to determine the precise test that should have been applied by the city in deciding to grant the petitioner's request, or by Judge Evans in measuring the evidence to determine its sufficiency to support the city's resolution. With no directions in the annexation act or the zoning regulations, we think it should have been one of the four named above - original mistake, change in conditions, mistake or arbitrary classification or newly acquired territory - or a combination of two or more of them. The petitioners definitely proceeded upon the theory of original mistake and change in conditions. We have applied all four of the tests to the evidence, and it is sufficient, we think, to make any one and all of the four possible issues fairly debatable; hence, we cannot say the resolution was arbitrary or capricious. In this situation, as the courts do not come or return, we must affirm."

The Appellant also argues that the Appellee's existing public utility storage yard is a contractor's equipment storage yard and as such is not permitted even by special exception in any residential zone. In Cassidy v. Board of Appeals, 218 MD 418 (1958), the Court of Appeals considered the question as to whether the Baltimore County Zoning Regulations permitted the granting of a special exception for a "steam generating plant and related facilities" to a public utility company in a R-6 Zone, Residence One and Two Families. Section 209.3 of the regulations permitted the granting of special exceptions in R-6 zones for "public utility uses other than those noted in Section 200.11." (The public utility services listed in 200.11 were telephone and telegraph lines, electric light and power lines, which were permitted in residential zones without special exceptions.) The Court of Appeals determined that the regulations authorized a special exception to public utility companies in R-6 zones for the operation of steam generating plants and related facilities and at page 427 stated:

"Thus it is seen that the plain, comprehensive and express language of the regulations permits the issuance of special exceptions in R-6 Zones for 'public utility uses' (other than those already permitted without a special exception). The language is broad and no limitations are placed thereon. It cannot seriously

and related facilities' operated by a public utility company for the benefit of the public are not 'public utility uses.' If a steam generating plant is to be excluded from the phrase 'public utility uses,' what other uses are also to be excluded and what are to be considered as included, without clarifying language to guide us?"

In the case at bar, the subject property is located in an R-6.2 (Agricultural) Zone, and Section 1A01.2B5 of the Baltimore County Zoning Regulations permits as a matter of right the following public utility uses: "Telephone, telegraph, electrical-power, or other similar lines or cables - all underground; underground gas, water, or sewer mains or storm drains; other underground conduits except underground interstate and intercontinental pipelines." Section 1A01.2C18 of the regulations permits the granting of special exceptions in R-6.2 Zones for "public utility uses not permitted as of right including underground interstate and intercontinental pipelines." The evidence is clear that an existing public utility storage yard and the enlargement thereof operated by a public utility company in connection with the construction, maintenance and inspection of its entire transmission system for the benefit of the public is a "public utility use."

The appellant further argues that the Appellee's existing facility is a nonconforming use and the Board's action in granting a special exception for the enlargement thereof was illegal in that it violated Sec. 104 of the Baltimore County Zoning Regulations which provides that "no nonconforming building, structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used" and that the area of the parcel of land for which a special exception is being requested exceeds this limitation.

It is undisputed that the Appellee's storage yard has been in existence prior to the enactment of Baltimore County Zoning Regulations. In 1968, when the Appellee proposed to construct a new storage shed, at the subject site, it was located in an R-6 Zone, Residence, One and Two Family - which permitted public utility uses of this nature as special exceptions. Recognizing the fact that the existing use was nonconforming, although not strictly prohibited by the zoning regulations, the Appellee filed a petition with the Zoning Commissioner of Baltimore County requesting a special

exception for a public utility service center on a 2.28 acre parcel of land, being a portion of the original site, excluding the area under the overhead transmission lines. By Order dated May 22, 1968, the Deputy Zoning Commissioner of Baltimore County granted the special exception. No appeal was ever filed in the case.

In the case at bar, the Board of Appeals heard testimony and admitted evidence in connection with the Appellee's request for a special exception to use a 5.68 acre parcel of land for the enlargement of its existing public utility storage yard. The legality of the existing special exception use was not an issue before the Board; consequently it was not considered by them. The allegation in the Appellant's memorandum that the existing public utility facility is a nonconforming use (a mere conclusion on the part of the Appellant) is not at issue in this case; therefore, not subject to judicial review.

CONCLUSION

For the reasons, and in accordance with the authorities, above set forth, the Appellee maintains that there was substantial evidence in the record supporting the Board's finding that all of the regulatory requirements thereof had been satisfied. The Order of the Baltimore County Board of Appeals should, accordingly, be affirmed.

Respectfully submitted,

William E. Colburn
William E. Colburn
James A. Eddison, Jr.
17th Floor Gas and Electric Building
Box 1475
Baltimore, Maryland 21203
234-5669
John B. Howard
409 Washington Avenue
Towson, Maryland 21204
838-4111

Attorneys for Petitioner/Appellee
Baltimore Gas and Electric Company

CERTIFICATION

THIS IS TO CERTIFY that a copy of the foregoing Reply Memorandum of Fact and Law has been mailed to Edward L. Blanton, Jr., Esq., Suite 300, Executive Building, 22 West Road, Towson, Maryland 21204, Protestant/Appellant; Jay V. Strong, Jr., Esq., Suite 300, Executive Building, 22 West Road, Towson, Maryland 21204, Attorney for Protestant/Appellant; Mr. Robert B. Carter, Long Green Road, Long Green, Maryland 21092, Protestant; John W. Hession, III, Esq., County Office Building, Towson, Maryland 21204, People's Counsel; and Edith T. Eismhart, Administrative Secretary, County Board of Appeals, Room 219, Court House, Towson, Maryland 21204, this 16TH day of June 1977.

William E. Colburn
Attorney for
Petitioner/Appellee
Baltimore Gas and Electric Company

Appellant	* COURT OF SPECIAL APPEALS
vs.	*
BALTIMORE GAS & ELECTRIC CO.	* September Term, 1977
Appellee	* Case No. 812
* * * * *	

ORDER

The Court of Special Appeals, upon consideration of the matters presented in the Joint Motion for Remand filed by the parties hereto and having determined that a remand of the cause to the Circuit Court for Baltimore County for entry of a consent decree finally settling the rights of the parties is advisable, it is, this 5th day of January, 1978.

ORDERED: That this case be, and it hereby is, remanded to the Circuit Court for Baltimore County for entry of a final order settling the rights of all parties. *Handwritten signature*

Charles J. Felt
Chief Judge
James C. M. [unclear]
Judge
Rudolph P. [unclear]
Judge

Court of Special Appeals of Maryland

No. 812, SEPTEMBER TERM, 19 77

Edward L. Blanton, Jr.

VS.

Baltimore Gas and Electric Company

DISPOSITION OF APPEAL IN COURT OF SPECIAL APPEALS:

January 5, 1978: Order of Court remanding case to the Circuit Court for Baltimore County for entry of a final order settling the rights of all parties. Mandate to issue forthwith.

TRANSCRIPT

RETURNED TO Clerk, Circuit Court for Baltimore County
Towson, Maryland 21204

Date, January 9, 1978

BY FIRST CLASS MAIL

Julius A. Romano, Clerk

REMARKS:

FILED JAN 11 1978

EDWARD L. BLANTON, JR. IN THE
Appellant COURT OF SPECIAL APPEALS
VS.
BALTIMORE GAS & ELECTRIC CO. September Term, 1977
Appellee Case No. 812

JOINT MOTION FOR REMAND

The parties in this action, by their attorneys, respectfully move this honourable Court to remand the above captioned cause to the Circuit Court for Baltimore County, for the purpose of entering a settlement order disposing of the matters raised by this appeal, the content of which has been mutually agreed to by the parties, and as grounds therefor say:

1. This is an appeal from an order of the Zoning Commissioner of Baltimore County granting the Baltimore Gas & Electric Company's request for a special exception to expand a public utility storage facility in a rural residential zone;
2. The Baltimore Gas & Electric Company has since determined that the expansion is no longer needed and that no useful purpose could be served by perfecting its right to expand through a continuation of this litigation;
3. The dismissal of the appeal would permit the decision of the Zoning Commissioner to stand, as affirmed by the County Board of Appeals and the Circuit Court for Baltimore County, and such solution is unacceptable to the Appellant;
4. The parties have agreed upon a mutually satisfactory settlement of this case, to be implemented by a consent decree to be filed with and approved by the Circuit Court for Baltimore County; and

FILED

JAN 5 1978

JULIUS A. ROMANO, CLERK
COURT OF SPECIAL APPEALS
OF MARYLAND

5. All parties, by their counsel, have joined in this Motion, as evidenced by their signatures affixed hereto.

Jay V. Strong, Jr.
Jay V. Strong, Jr.
300 Executive Building
22 West Road
Towson, Maryland 21204
Attorney for Appellant

John B. Howard
Cook, Howard, Downes & Tracy
409 Washington Avenue
Towson, Maryland 21204

William E. Colburn
William E. Colburn

James A. Biddison, Jr.
James A. Biddison, Jr.

17th Floor Gas & Electric Bldg.
Baltimore, Maryland 21203
Attorneys for Appellee

Re: PETITION FOR SPECIAL EXCEPTION for the enlargement of an existing public utility storage yard N/S Long Green Road 4,000 Feet West of Long Green Pike, 11th District
BALTIMORE GAS AND ELECTRIC COMPANY Petitioner - Appellee
Zoning File No. 75-242-X
EDWARD L. BLANTON, JR. Protester - Appellant

CONSENT DECREE

This case having been remanded to this Court upon consideration by the Court of Special Appeals of Maryland of the Joint Motion for Remand made by all the parties hereto, it is represented that by Order dated June 30, 1977, this Court affirmed the Order of the County Board of Appeals of Baltimore County of August 4, 1976, and Amended Order of the Board of August 31, 1976, granting the Appellee's Petition for Special Exception for the enlargement of its existing public utility storage yard situate on the north side of Long Green Road in the Eleventh Election District of Baltimore County. Subsequent to the entering of the aforesaid Order, the Appellee has determined that the enlargement of the aforesaid public utility storage yard is no longer needed, and the Appellee has agreed with the Appellant that it will not enlarge the said public utility storage yard, but will continue to operate the said storage yard as it presently exists until June 1, 1979, at which time the Appellee will discontinue its use of the said storage yard. Therefore, it is this 10th day of January 1978, ORDERED, that the Order of the County Board of Appeals of Baltimore County of August 4, 1976, and Amended Order of the Board of August 31, 1976, granting the Appellee a Special Exception for the enlargement of its existing public utility storage yard be and the same is hereby "reversed" and that all costs be divided equally between the parties.

FILED JAN 10 1978

Judge

May 20, 1975

John B. Howard, Esquire
409 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Exception N/S of Long Green Road, 4000' W of Long Green Pike - 11th Election District
Baltimore Gas & Electric Company - Petitioner
NO. 75-242-X (Item No. 147)

Dear Mr. Howard:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

JAMES E. DYER
Deputy Zoning Commissioner

JED/mc

Attachments

cc: W. E. Colburn, Esquire
Gas & Electric Building
Baltimore, Maryland 21203

Mr. Robert Carter
Long Green
Long Green, Maryland 21092

Description for parcel of land proposed for Special Exception by Baltimore Gas and Electric Company, for extension of Long Green Service Center, in the 11th Election District of Baltimore County, State of Maryland.

Beginning for the same at a point in or near the center of Long Green Road, said point being distant 4250' more or less measured westerly along said road from its intersection with Long Green Pike, said point of beginning also being where said road is intersected by the westernmost side of an existing Baltimore Gas and Electric Company transmission line right-of-way, 100 feet wide, (formerly belonging to Susquehanna Transmission Company of Maryland), thence leaving said road and binding on said side of right-of-way N. 49°34' W. - 767.30', thence crossing said right-of-way and continuing to run for the outlines of the parcel of land now being described S. 84°28'00" E. - 389.40' to a concrete monument, thence S. 5°32'00" W., passing over concrete monuments heretofore set at 586.54' and 750.39', for a total distance of 786.34' to a point in or near the center of said Long Green Road, thence binding in or near the center of said road N. 78°49'10" W. - 99.99' and N. 76°33'10" W. - 155.90' to the place of beginning.

Containing 5.68 acres of land more or less.

The courses in the above description are referred to the Baltimore County Grid Meridian, and are based on a survey by Dollenberg Brothers dated January 12, 1972.

The above described parcel of land is shown on Plat No. 52-590-E attached hereto and made a part hereof.

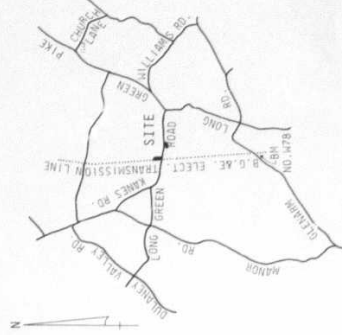
W. E. Colburn, Esquire
Electric Engineering Department
Baltimore Gas & Electric Company



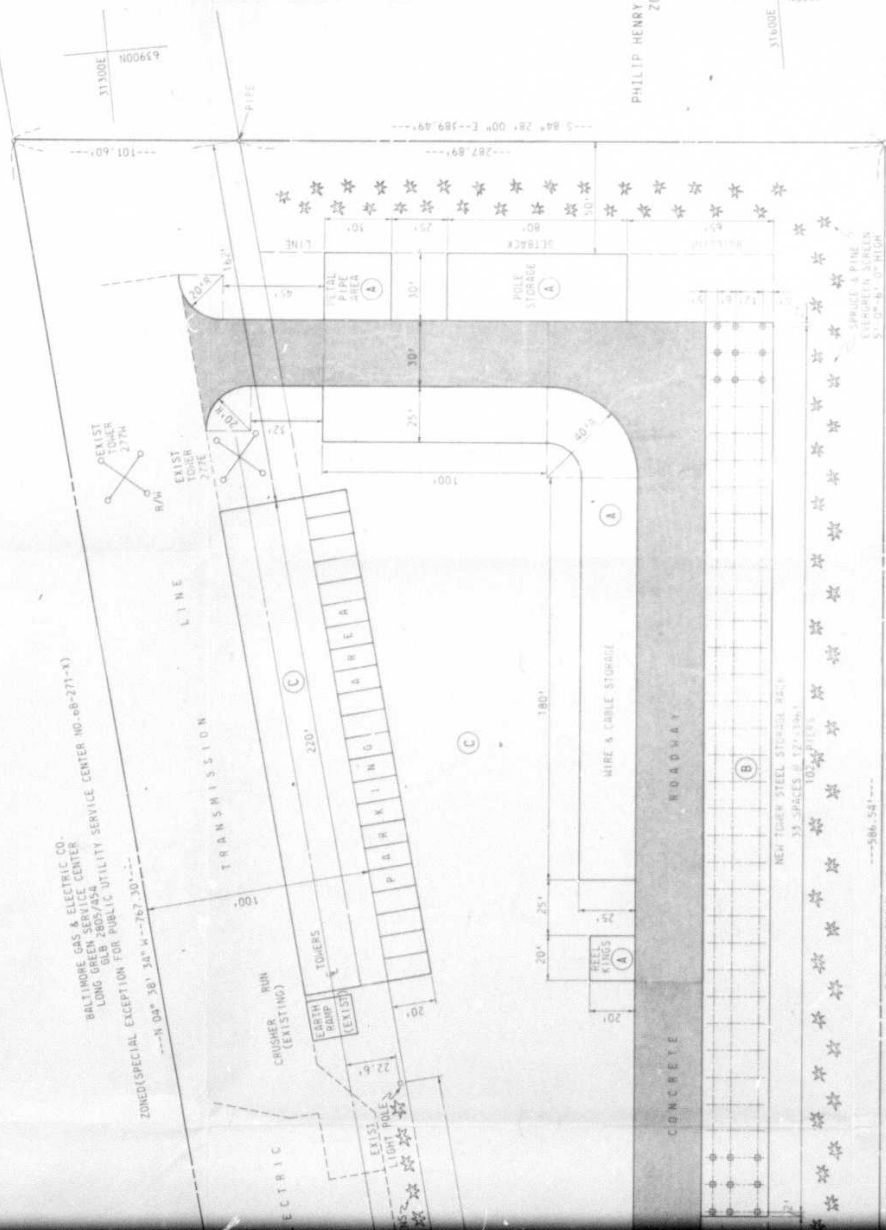
December 11, 1976

JUDICIAL Raine Phone 494-2647	CATEGORY Appeal	DATE 9/2/76	DOCKET 10	FOLIO 261
Jury (x)	Date at Issue	10/27/76	TRIAL DATE	
Non-Jury ()	Date Assigned	10/27/76		
REMARKS:				
COUNSEL		CASE TITLE		
Jay V. Strong, Esq. Sulfa 3000 Executive Bldg. 22 West Road Towson, Md. 21204	P	PETITION FOR SPECIAL EXCEPTION FOR THE ENLARGEMENT OF AN EXISTING PUBLIC UTILITY STORAGE YARD N/S LONG GREEN ROAD 4000' W. of Long Green Pike 11th District, Baltimore Gas and Electric Company.		
PHONE NO. XXXXX 296-5160				
William E. Colburn, Esq. James A. Biddison, Jr. Esq. 17th Fl. Gas & Elect. Bldg. Baltimore, Md. 21203	P	Petitioners Edward L. Blanton, Jr. Appellant Protestant		
PHONE NO. 234-5669		JOHN B. HOWARD W.E. COLBURN MR. ROBERT J. CARTER Peoples' Counsel		
		COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY		
John B. Howard, Esq. 409 Washington Ave Towson, Md. 21204	D			
PHONE NO. 823-4111		ASSIGNMENT		
CA-5				

1.4"=1.0'-0" 5' 10' 15'



VICINITY PLAN
SCALE: 1"=1 MILE



CONC. HIGH
6'8" x 7'11" x 11"
5'16" x 4'11"

PLN
SCALE: 1"=30'-0"

PHILIP HENRY ALBRECHT SR & WIFE
ZONED ROP



J.P. BOOTHBY SRD (P.L.S. #10)
JULIUS ENGINEERING DEPARTMENT
BALTIMORE GAS & ELECTRIC COMPANY

JOB ORDER	REV.	DATE	DESCRIPTION	APPROVAL
NO 5429		1974	INSTALL OF A STORAGE AREA	

ENGINEERING	FOR
CIVIL MECH. ELEC.	ZONING
CHIEF ENGINEER MANAGER	SERVICE CENTER

BALTIMORE GAS AND ELECTRIC COMPANY ELECTRIC ENGINEERING DEPARTMENT	
DESIGNED BY DRAWN BY CHECKED BY APPROVED BY	SCALE: 1"=30'-0" DWG. # 2-530-E NO.

NOTES
PROPERTY LOCATED IN 11TH ELECTION DISTRICT
OF BALTIMORE COUNTY TAX MAP #53
THIS PROPERTY IS ZONED ROP
THIS PROPERTY IS 5.66 ACRES
ZONING MAP NO. 40
DEED REFERENCE DTG S277/601 & GLB 2805/434
PREVIOUS SPECIAL EXCEPTION
NO. 68-271-X DATED 5-22-68 GRANTED FOR
EXISTING FACILITIES
ROAD SPECIFICATIONS: COMPACT SURGRADE TO 95% DENSITY
AS DETERMINED BY ASTM D-1557-64T
INSTALL 8" OF CR-47 CRUSHED STONE BASE PLUS DOUBLE SURFACE
CONCRETE EACH LIFT WITH A 10-TON ROLLER. INSTALL 2" OF
BITUMINOUS BINDER COURSE (P-2 GRADATION). INSTALL 1" OF
BITUMINOUS CONCRETE SURFACE (PC-1-61 GRADATION).
SURFACE MATERIAL:
(A) AREA TO BE 8" CRUSHED STONE BASE PLUS DOUBLE SURFACE
TREATMENT OF TAR AND STONE CHIPS.
(B) AREA TO BE 4" HAYLAND STATE HIGHWAY DESIGNATION SP-4
BLUE GRAY CRUSHED TAP ROCK. VENDOR SHALL MAKE
NECESSARY ARRANGEMENTS TO ENSURE UNIFORM COLOR OVER
ENTIRE AREA. LOS ANGELES ABRASION RATING SHALL BE
40-50. AREA TO BE 8" CR-47 CRUSHED STONE BASE OVER NEW
SURGRADES.
SHADED AREAS TO BE PAVED AS PER ROAD SPECIFICATIONS
STATED ABOVE.
ALL OTHER AREAS TO BE SEEDED.
THIS PLAN IS BASED ON A SURVEY BY VOLLENBERG BROTHERS DATED
JANUARY 12, 1972.

PHILIP HENRY ALBRECHT SR & WIFE
ZONED ROP

52-590-E

24 May 1955
 27 Oct 55
 28 Oct 55

1"=10'

0 10 20 30 40 50

