

PETITION FOR ZONING VARIANCE 83-285-A TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 for a Variance from Section 402.2.2. (2) to allow parking, maneuvering area and driveway to be paved with crusher run in lieu of the required macadam, tar and chip, etc.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

(See attached)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: N/A

Legal Owner(s):

JAMES R. SZYMAN
(Type or Print Name)

James R. Szyman
Signature

Lorraine E. Szyman
(Type or Print Name)

Lorraine E. Szyman
Signature

Attorney for Petitioner:

Arvin E. Rosen
(Type or Print Name)

Arvin E. Rosen
Signature

Two East Fayette Street
Address

Baltimore, Maryland 21202
City and State

Attorney's Telephone No.: 539-6606

Two East Fayette Street 539-6606
Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of May 1983, 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 21st day of June, 1983, at 10:45 o'clock A.M.

William E. Hammond
Zoning Commissioner of Baltimore County.

(over)

FILE
SECTION
DISTRICT 15
DATE 3/10/83
TYPE
HEARING A
BY CR
FINAL
BY

DATE RECEIVED FOR FILING
May 11, 1983
Maryland Department of Planning and Zoning

5/12

Two June 21, 1983
10:45 A.M.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William E. Hammond
TO: Zoning Commissioner
Norman E. Gerber, Director
FROM: Office of Planning and Zoning
Zoning Petition NO. 83-285-A
SUBJECT: James R. Szyman, et ux

Date: May 31, 1983

This office is opposed to the granting of the subject request.

Norman E. Gerber
Norman E. Gerber
Director of Planning and Zoning

NEG:JGHalc

cc: Arlene January
Shirley Hess

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 14, 1983

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

c/o
Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Arvin E. Rosen, Esquire
Two East Fayette Street
Baltimore, Maryland 21202

RE: Case No. 83-285-A Item No. 188
Petitioner - James R. Szyman, et ux
Variance Petition

Dear Mr. Rosen:

Enclosed please find addendum comments for the above referenced case.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosure

cc: Whitney, Bailey, Cox & Magnani
Suite 311 Green Spring Station
2360 W. Joppa Road
Lutherville, Md. 21093

Mr. & Mrs. James Fordyce
12526 Eastern Avenue
Baltimore, Md. 21220

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 10, 1983

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

c/o
Nicholas B. Commodari
Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Arvin E. Rosen, Esquire
Two East Fayette Street
Baltimore, Maryland 21202

RE: Case #83-285-A (Item No. 188)
Petitioner - James R. Szyman, et ux
Variance Petition

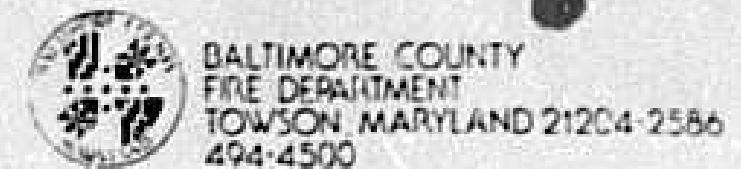
Dear Mr. Rosen:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

This hearing originates as a result of a recent zoning violation case (C-81-916), concerning required paving of the subject property, that is under appeal pending the outcome of this hearing.

In my conversation with your engineer, Mr. Bill Davis, I stated that revisions were required to the site plan, concerning required parking, entrances and curbing or railroad ties surrounding the proposed parking areas. In addition, there is still a question concerning the drainage of this property along the southerly property line. Mr. Jim Maricle of the Bureau of Engineering was supposed to comment on the "proposed berm" along this property line, but as of this writing I have not received any comment from him. I suggest that prior to the scheduled hearing you contact Mr. Maricle and discuss this matter.

Particular attention should be afforded to the comments of the Health Department, and since changes to the petition forms were made, after consultation with you, said forms must be initialed.



PAUL H. REINCKE
CHIEF

May 31, 1983

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: James R. and Lorraine E. Szyman

Location: S/S Ebenezer Road 450' W. from centerline of Eastern Avenue.

Item No.: 188 Zoning Agenda: March 29, 1983

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 or _____ 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 operation. Driveway shall support 50,000 pound fire apparatus.
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 "Life Safety Code", 1976 Edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *Paul H. Reincke* (Signature)
Planning Group
Special Inspection Division
Fire Prevention Bureau

/mb

Arvin E. Rosen, Esquire
Page 2
June 10, 1983

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:mbh

Enclosures

cc: Whitney, Bailey, Cox & Magnani
Suite 311
Green Spring Station
2360 W. Joppa Road
Lutherville, Maryland 21093

Mr. & Mrs. James Fordyce
12526 Eastern Avenue
Baltimore, Maryland 21220

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 10th day of June, 1983

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner: *James R. Szyman, et ux*

Petitioner's Attorney: *Arvin E. Rosen*

Reviewed by: *Nicholas B. Commodari*
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

Pursuant to the advertisement, posting of property, and public hearing on the Petition, it was determined that the granting of the variance requested would not be in strict harmony with the spirit and intent of the Baltimore County Zoning Regulations and would adversely affect the health, safety, and general welfare of the community and, as such, the variance should not be granted.

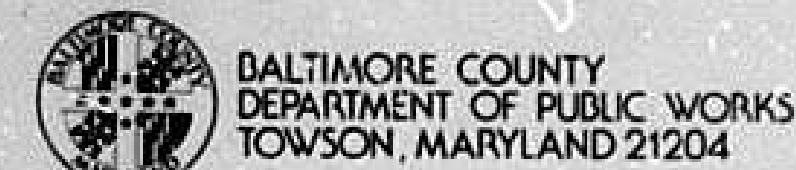
Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 1st day of August, 1983, that the herein Petition for Variance(s) to permit parking, maneuvering areas, and driveways to be paved with crusher run in lieu of the required macadam, tar and chip, etc. be and the same is hereby DENIED.

Jan M. D. Jones
Deputy Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE August 1, 1983

BY *Mary Conner (Club)*
ADMINISTRATIVE ASSISTANT



HARRY J. PISTEL, P.E.
DIRECTOR

May 5, 1983

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #188 (1982-1983)
Property Owner: James R. & Lorraine E. Szyman
S/S Ebenezer Rd. 450' W. from centerline of
Eastern Ave.
Acres: 2.30 District: 15th

Dear Mr. Hammond:

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.

Highways:

Ebenezer Road is proposed to be improved in the future as a 30-foot closed section roadway on a 50-foot right-of-way.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards and Specifications.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

In accordance with the drainage policy, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Item #188 (1982-1983)
Property Owner: James R. & Lorraine E. Szyman
Page 2
May 5, 1983

Water and Sanitary Sewer:

There is a public 8-inch water main and 12-inch public sanitary sewerage in Ebenezer Road.

Very truly yours,

Robert A. Morton
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss

MM-SN Key Sheet
24 NE 27 Pos. Sheet
Nº 6 L Topo
83 Tax Map

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Nick Gonnawalla
Planning & Zoning
FROM: James A. Matile
SUBJECT: J & L Industrial, Inc.
6923 Ebenezer Road

Date: June 30, 1983

I visited the subject site on June 17 and reviewed a site plan and storm water management computations dated December 6, 1982 and wish to offer the following comments:

1. The existing drainage outfall for the site is not adequate. The proposed concentrated release of storm water from the stormwater management facility to a flat, improved lawn area of an adjacent property owner (Fordyce) is unacceptable.

The runoff from the J & L site must be conveyed to an adequate outfall point which is shown on the attached print.

2. Paving the driveways and parking areas will increase the amount of stormwater runoff from the site, but the amount of change will be relatively small, as the existing compacted crusher run driveways and parking areas already have a high runoff potential. The greatest change in runoff potential from the site had already occurred when the grass and dirt areas were replaced with the crusher run material.

I cannot recommend that the developer be released from the paving requirements. The paving requirements at this point in time will not substantially change the drainage problems. The developer should, however, be required to correct the drainage situation by providing an adequate outfall.

JAM/al

cc: Scott Barheight
Arvin Rosen
William Davis
James Fordyce



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

May 12, 1983

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #188, Zoning Advisory Committee Meeting of March 29, 1983, are as follows:

Property Owner: James R. & Lorraine E. Szyman
Location: S/S Ebenezer Road 450' W. from centerline of Eastern Avenue
Existing Zoning: B.R.-ONS
Proposed Zoning: Variance to allow parking, maneuvering area and driveway to be paved with crusher run in lieu of the required durable and dustless surface.
Acres: 2.30
District: 15th

Request for waiver to pave with crusher run in lieu of required durable and dustless surface be granted for reserved and employee parking, provided not less than #2 stone be utilized on these areas and appropriate applications of dust suppressants are used to control the dust when rock becomes particulate due to crushing by vehicle traffic.

Request that the variance be denied for maneuver and driveway areas for crusher run use as paving in lieu of the required and dustless surface.

As a minimum, it is requested that the Baltimore County's Planning Board's land use and development policies and zoning resolution set forth in the Comprehensive Manual of Development Policies (CMP) 1983, section 17.A.2.b.1-3, (storage of empty containers) be required for loaded and unloaded tanker vehicles presently observed upon the property and those which will soon become greater in number as this facility's business increases.

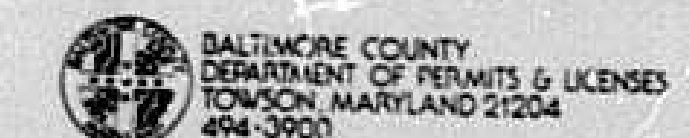
Mr. William E. Hammond
Page 2
May 12, 1983

All precautions to control air pollution in the state of Maryland on roads and driveways are to be observed.

Very truly yours,

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/als



TED ZALESKI, JR.
DIRECTOR
Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

April 1, 1983

Dear Mr. Hammond:

Comments on Item #188 Zoning Advisory Committee Meeting March 29, 1983 are as follows:

Property Owner: James R. & Lorraine E. Szyman
Location: S/S Ebenezer Road 450' W. from centerline of Eastern Ave.
Existing Zoning: B.R.-ONS
Proposed Zoning: Variance to allow parking, maneuvering area / driveway to be paved with crusher run in lieu of the required durable & dustless surface.
Acres: 2.30
District: 15th

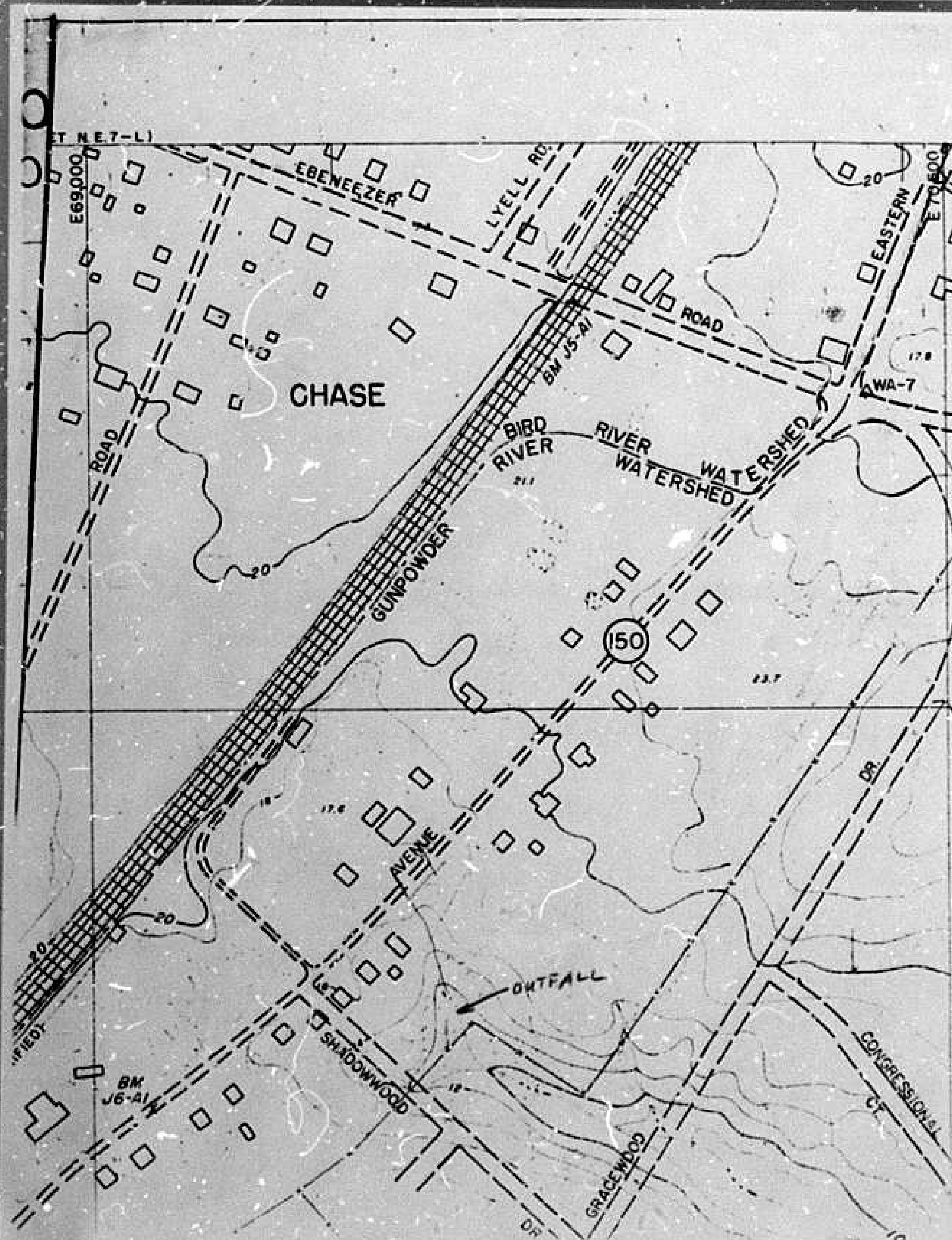
The items checked below are applicable:

- A. All structure shall conform to the Baltimore County Building Code 1981/ Council Bill 4-82 State of Maryland Code for the Building and Code and other applicable Codes.
- B. 1. grading/paving construction of berm. permit shall be required before beginning construction of berm.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/ is not required.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistant construction, no openings permitted within 3'-0" of lot lines. A firewall is required if construction is on the lot line, see Table 1402, Item 2, Section 1407 and Table 1402.
- F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____.
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify in this office, that, the structure for which a proposed change in use is proposed, comply with the height/area requirements of Table 305 and the required construction classification of Table 1401.
- I. Comments:

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room #122 (First Floor) at 111 West Chesapeake Ave., 21204.

Charles E. Buchanan
Charles E. Buchanan, Chief
Plans Review

CMB:rcj
FON 01-82



IN THE MATTER OF
J & L INDUSTRIES, INC.
BALTIMORE COUNTY, MARYLAND
HEARING OFFICE DOCKET NO. 82-E-76

BEFORE A HEARING EXAMINER,
ELIZABETH M. ECKHARDT, ESQUIRE,
DESIGNEE OF THE SECRETARY OF
HEALTH AND MENTAL HYGIENE

SYNOPSIS OF CASE
FINDING OF FACT
CONCLUSION

SYNOPSIS OF CASE

J & L Industries, Inc., a certified hazardous waste hauler, contested the determination of the Assistant Secretary for the Department of Health and Mental Hygiene that assessed J & L Industries, Inc. the sum of Five Hundred Dollars (\$500.00) for the storing of hazardous waste on their Ebenezer Road site without a permit. The hazardous waste was accepted from the generator accompanied by unsigned and incomplete Manifests.

FINDING OF FACT

1. J & L Industries, Inc. hauled and stored hazardous waste, namely sodium cyanide and other corrosive and re-active chemicals at the J & L facility, located at Ebenezer Road, Baltimore, Maryland.
2. The hazardous waste was transported by J & L Industries, Inc. on October 28, 1981 from Hoen Building Company accompanied by hazardous waste Manifests A-87246 and A-87247.
3. J & L Industries, Inc. is listed on both Manifests as the disposal facility. J & L Industries, Inc. does not possess a permit to store or dispose of hazardous waste.
4. The hazardous waste was accepted from the generator accompanied by unsigned and incomplete Manifests.
5. The hazardous waste was stored at J & L's facility on Ebenezer Road for a period of 14 days.
6. The hazardous waste was shipped out of state on November 11, 1981

unaccompanied by hazardous waste Manifests A-87246 and A-87247 or any other Maryland Manifests.

7. The said waste was shipped back to J & L facility on November 21, 1981, without hazardous waste Manifests A-87246 and A-87247 or any other Maryland Manifests.
8. J & L site on Ebenezer Road is adjacent to residential property and near the high speed train track.
9. Phil Bayle, an employee of J & L Industries, Inc. signed as the facility portion of the Manifests as well as the driver and receiving agent.
10. J & L Industries Inc. has recently applied for a permit for the storage and disposal of hazardous waste.
11. Cyanide and certain acids are to be segregated and stored in different locations and properly packed.
12. There were eight (8) drums of cyanide. Cyanide is a re-active waste and must be stored away from and in a manner such that it will not react with other chemicals.
13. J & L Industries, Inc. had been paid Ten Thousand Dollars (\$10,000.00) to remove 28 55-gallon drums of material.
14. November 28, 1981, Office of Environmental Programs personnel returned to J & L Industries, Inc. to review hazardous waste Manifests.
15. The cyanide waste had been shipped back to the Baltimore yard and was being stored in a trailer located at the facility.
16. J & L Industries, Inc. subsequently shipped the material to Sea-coast in New York.
17. During this period J & L Industries, Inc. was undergoing a change in personnel and acknowledges administrative errors and short term storage problems with material.
18. The main business of J & L Industries, Inc. is waste water cleanup, tank cleaning, bilge cleaning, and waste oil. J & L Industries, Inc. has experience in hazardous waste handling in other states.

-2-

CONCLUSION

The facts are not in dispute. The Company did not have a hazardous waste permit "to store" and they did store for a period of 14 days on their property located on Ebenezer Road thus, violating State law. Natural Resources Article 19-1413.2, Annotated Code of Maryland. In setting the civil penalty at Five Hundred Dollars (\$500.00) the State showed leniency and as far as this Hearing Examiner is concerned, no further leniency is warranted.

The Company, according to their own testimony, does have experience in dealing with hazardous material in other States. Yet in Maryland, for approximately a six month period, they had allowed their hazardous waste business to flounder, and in a very careless way, neglected to bring that area of their business up to a standard of compliance with safety and State law.

It is concluded that the Five Hundred Dollar (\$500.00) Civil Penalty levied by the Office of Environmental Programs should be AFFIRMED.

Date: 5/2/82

Elizabeth M. Eckhardt, Esquire
Hearing Examiner
Office of Hearings
300 West Preston Street, Room 104
Baltimore, Maryland 21201
Phone: (301) 383-2642

IN THE MATTER OF
J & L INDUSTRIES, INC.
BALTIMORE COUNTY, MARYLAND
HEARING OFFICE DOCKET NO. 82-E-76

BEFORE A HEARING EXAMINER,
ELIZABETH M. ECKHARDT, ESQUIRE,
DESIGNEE OF THE SECRETARY OF
HEALTH AND MENTAL HYGIENE

ORDER

Based upon the Synopsis of Case, Finding of Fact, and Conclusion, of the Hearing Examiner, it is this 21st day of May, 1982, ORDERED that J & L Industries, Inc. pay Five Hundred Dollars (\$500.00) Civil Penalty levied by the Office of Environmental Programs.

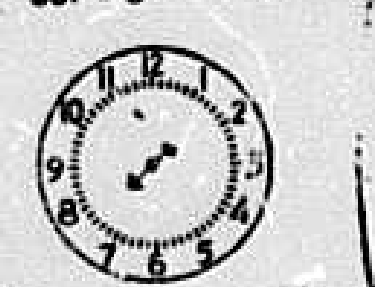
Elizabeth M. Eckhardt, Esquire
Hearing Examiner
Office of Hearings
300 West Preston Street
Baltimore, Maryland 21202
Phone: (301) 383-2642

0.12.84

A. Jablon

83-285-A

OCT 18 AM



JAMES R. SZYMAN
LORRAINE E. SZYMAN
v.
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Docket 16 Folio 214
Case No. 84-M-159

ORDER FOR APPEAL BY PLAINTIFFS
JAMES R. SZYMAN AND LORRAINE E. SZYMAN

Mr. Clerk: Enter an appeal to the Court of Special Appeals on behalf of Plaintiffs, James R. Szyman and Lorraine E. Szyman from the judgment entered in this action on September 25, 1984.

Robert L. Flanagan
Siskind, Burch, Grady and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15th day of October, 1984, a copy of the foregoing Order for Appeal by Plaintiffs was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esquire, Assistant County Solicitor, Office of Law, Court House, Towson, Maryland 21204; and Phyllis Cole Freidman, Attorney, People's Counsel for Baltimore County and Peter Max Zimmerman, Esq. Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204; Mr. Arnold Jablon, Zoning Commissioner, Court House, Towson, Maryland 21204; G. Scott Barhight, Esquire, Nolan, Plumhoff & Williams, Chartered, 204 W. Pennsylvania Avenue, Towson, Maryland 21204.

Robert L. Flanagan

10.1.84

A. Januszyk

JAMES R. SZYMAN
LORRAINE E. SZYMAN
v.
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

Docket 16 Folio 214
Case No. 84-M-159

ORDER FOR APPEAL BY PLAINTIFFS
JAMES R. SZYMAN AND LORRAINE E. SZYMAN

Mr. Clerk: Enter an appeal to the Court of Special Appeals on behalf of Plaintiffs, James R. Szyman and Lorraine E. Szyman from the judgment entered in this action on September 25, 1984.

Robert L. Flanagan
Siskind, Burch, Grady and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 15th day of October, 1984, a copy of the foregoing Order for Appeal by Plaintiffs was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esquire, Assistant County Solicitor, Office of Law, Court House, Towson, Maryland 21204; and Phyllis Cole Freidman, Attorney, People's Counsel for Baltimore County and Peter Max Zimmerman, Esq. Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204; Mr. Arnold Jablon, Zoning Commissioner, Court House, Towson, Maryland 21204; G. Scott Barhight, Esquire, Nolan, Plumhoff & Williams, Chartered, 204 W. Pennsylvania Avenue, Towson, Maryland 21204.

Robert L. Flanagan

12-2/B22
4.17.84

IN THE MATTER OF
JAMES R. AND LORRAINE E. SZYMAN
FOR ALLEGED ZONING VIOLATION
ON PROPERTY LOCATED AT
6923 EBENEZER ROAD
15th DISTRICT
BEFORE THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY
NO. 83-285-A

IN THE
CIRCUIT COURT
OF
BALTIMORE COUNTY

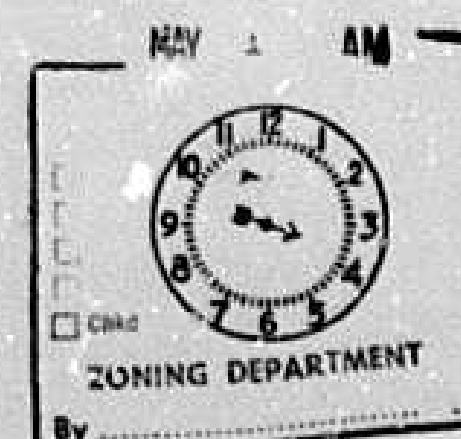
ORDER FOR APPEAL BY JAMES R. SZYMAN
AND LORRAINE E. SZYMAN

Mr. Clerk:

Please enter an appeal pursuant to Rule B2, Chapter 1100, Maryland Rules of Procedure, on behalf of James R. Szyman and Lorraine E. Szyman from the written Order issued April 4, 1984 by the County Board of Appeals of Baltimore County in Proceeding No. 83-285-A.

Arvin E. Rosen

Dennis J. Hoover
Siskind and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606
Attorneys for Appellants



JAMES R. SZYMAN and
LORRAINE E. SZYMAN
Appellants
vs.
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Appellee

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Case No. 84-M-159
Docket 16, Folio 214

MEMORANDUM OPINION

The Appellants, James R. Szyman and Lorraine E. Szyman, are owners of property located at 6923 Ebenezer Road in Baltimore County. Appellants filed a Petition for Variance from section 409.2.c(2) of the Baltimore County Zoning Regulations (hereinafter "Regulations"), which provides that:

"Any parking or storage space for more than 5 vehicles shall provide a durable and dustless surface, and shall be properly drained."

Appellants sought approval to permit their parking, maneuvering areas and driveways to be paved with crusher run instead of the required macadam, tar and chip, etcetera.

On August 1, 1983, the Deputy Zoning Commissioner (hereinafter "Commissioner") issued a decision denying the Petition for Variance. Appellants filed an appeal from the Commissioner's decision and, on February 2, 1984, the County Board of Appeals for Baltimore County (hereinafter "the Board") conducted a de novo hearing. On April 4, 1984, the Board filed an Order in which it affirmed the Order of the Commissioner and denied the

RECEIVED APPEALS
COUNTY BOARD OF
APPEALS

SEP 21 11:55

FILED SEP 26 1984

requested variance. Appellants appealed the Board's decision to this court, which held a hearing on August 27, 1984. Appellants contend that the decision of the Board is invalid, illegal, arbitrary and capricious and should be reversed for those reasons.

One of Appellants' arguments is that the Board failed to comply with the requirements of Md. ANN. CODE art. 25A, sec. 5 (U) (1981 Repl. Vol.) which provides, in part,:

"[I]t shall file an opinion which shall include a statement of the facts found and the grounds for its decision."

The Board's Opinion summarizes the testimony taken at the hearing and recites its conclusions. Although the Board could have been more explicit in expressing its determinations, the court concludes that the facts found and the grounds for decision are sufficiently implied in the Opinion of the Board so that the basis for the decision is clear. Therefore, there is no merit in Appellants' contention that the decision of the Board is procedurally defective.

Appellants also argue that the weight of the evidence supports a grant of the variance rather than a denial. The test to be applied by this court in review of the action of the Board was succinctly expressed by the Court of Appeals in Supervisor of Assess. v. Ely, 272 Md. 77, 84 (1974):

"The common denominator for testing judicial review of an act of an administrative agency . . . has been defined as whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of

-2-

judicial judgment for agency judgment." Fairchild Miller v. Supervisor of Assess., 267 Md. 519, 521 (1973); Supervisor of Assess. v. Banks, 252 Md. 600, 610 (1969); Ins. Comm'n v. National Bureau, 248 Md. 292, 309-310 (1967); See also Comptroller v. Diebold, Inc., 279 Md. 401, 407 (1977).

Review of the record in these proceedings leads this court to the conclusion that the decision of the Board is proper and cannot be overturned by the court. The Board obviously considered all the evidence presented to it and found that the use of crusher run versus macadam is not permissible in light of the specific guidelines which govern the granting of variances. Section 307 of the Regulations provides in pertinent part:

"The Zoning Commissioner . . . and the County Board of Appeals, upon appeal, shall have and are hereby given the power to grant variances from . . . offstreet parking regulations . . . only in cases where strict compliance with the . . . Regulations . . . would result in practical difficulty or unreasonable hardship . . . Furthermore, any such variances shall be granted only if in strict harmony with the spirit and intent of said . . . offstreet parking . . . 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."

Three witnesses testified at the Board's hearing regarding the runoff of water from Appellants' property. Each stated that runoff will exist whether the surface is crusher run or macadam. Although the runoff may be greater with macadam, the Board reasonably concluded that it can be controlled by grading

-3-

to cause the water to flow into the storm drainage system. The Board also heard testimony from two witnesses concerning the dust problem. The Board concluded that "the paving of the areas in question will alleviate the dust problem considerably." Crusher run obviously causes a dust problem not associated with macadam. Thus, "a reasoning mind reasonably could have reached the factual conclusion the agency reached." Furthermore, the denial of the variance is appropriate because the use of crusher run is not in "strict harmony with the spirit and intent" of the regulations, which is to provide a properly drained, durable and dustless surface.

In addition, it is obvious to this court, upon review of the record, that Appellants have not established that "strict compliance with the . . . Regulations . . . would result in practical difficulty or unreasonable hardship" as required by section 307 of the Regulations. One of the Appellants testified that an average estimate for paving from three contractors is \$85,000. Appellant indicated that the cost of putting down crusher run, three years prior to the hearing, was somewhere between fifteen and eighteen thousand dollars. This testimony is inconclusive because no evidence was submitted to the Board with which to measure the impact of an \$85,000 expenditure on the Appellants or on their business. Finally, any hardship of expenditures required to be made in addition to the cost of putting down crusher run has been caused by Appellants themselves. A self-inflicted hardship cannot be the basis for a variance; in fact, it is a bar to relief. Salisbury Board of

-4-

Zoning Appeals v. Bonds, 240 Md. 547 (1965)

For all of the above reasons, the decision of the Board is hereby affirmed. Costs are to be paid by Appellants.

J. William Hinkel
JUDGE

DATED: 9/25/84

cc: Arvin E. Rosen, Esquire
G. Scott Barhight, Esquire
Peter Max Zimmerman, Esquire
County Board of Appeals of
Baltimore County

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COUNTY BOARD OF APPEALS
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J8:10
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J8:11
6.22.84

JAMES R. SZYMAN * IN THE
LORRAINE E. SZYMAN * CIRCUIT COURT
v. *
COUNTY BOARD OF APPEALS * FOR
OF BALTIMORE COUNTY * BALTIMORE COUNTY
* Docket 16 Folio 214
* Case No. 64-M-159
* * * * *

MEMORANDUM OF LAW

Petitioners, James R. Szyman and Lorraine Szyman, by their attorneys, Arvin E. Rosen, Dennis J. Hoover and Siskind, Burch, Grady and Rosen, pursuant to Maryland Rule of Procedure B12, hereby submit the following Memorandum:

I. Introduction

Petitioners requested from the Zoning Commissioner for Baltimore County a variance from Section 405.2.c (2) of the Baltimore County Zoning Regulations to allow certain parking areas and driveways on the subject property to be paved with crusher run instead of the required "durable and dustless" surface. The Deputy Zoning Commissioner denied the requested variance on August 1, 1983, from which Petitioners took an appeal to the County Board of Appeals of Baltimore County ("Board").

A hearing was held before the Board on February 2, 1984. In addition to Petitioners presenting their case before the Board, counsel for two (2) Protestants, Mr. and Mrs. James Fordyce, and People's Counsel, on behalf of Baltimore County, presented witnesses and evidence. After a consideration of the testimony elicited and evidence submitted, the Board, by Opinion and Order dated April 4, 1984, affirmed the Order of the Deputy Zoning Commissioner and denied the variance petitioned for by Petitioners. Petitioners appealed the Board's decision to this Court, which is the subject of the instant case.

II. BOARD OF APPEALS DECISION FAILS TO CONFORM TO THE REQUIREMENTS OF LAW

It is well-established in Maryland that a decision by an administrative agency must include in its opinion a statement of the facts found by the agency and the reasons for its decision. Dundalk Holding Company, Inc. v. Horn, 266 Md. 280, 292 A.2d 77 (1972); Cf., Maryland Administrative Procedure Act, Annotated Code of Maryland, Article 41, Section 254 and State of Maryland Commission on Human Relations v. Malakoff, 273 Md. 214, 329 A.2d 8 (1974).

Further, pursuant to Article 25A, Section 5 (U) of the Annotated Code of Maryland, the enabling legislation under which Baltimore County created the Board the following must be complied with:

[U]pon any decision by a county board of appeals it shall file an opinion, which shall include a statement of facts found and the grounds for its decision. (emphasis added).

This language is virtually identical to former Baltimore County Zoning Regulation 501.4. The current edition of the Baltimore County Zoning Regulations, at Section 501, page 260, fn.2 reflects that Art. 25A, §5(U) now covers the establishment and operation of the County Board of Appeals.

The Opinion of the Board under review herein, quite clearly does not conform to these requirements. The Board, in its "review" of the testimony, merely summarizes the testimony of the six (6) witnesses called at the hearing. The Board made no attempt to resolve any conflicts in the testimony of the witnesses, most notably between the expert witness for the Petitioners and the Protestants.

Further, in the final paragraph of its Opinion, in which the Board states that the requested variance should be denied, the Board offers conclusory statements to its opinion to deny the request. However, no reference is made as to which facts, if

-2-

any, the Board relied upon. In particular, the Board states:

By proper planning and engineering of the paving elevations, the bulk of any storm water can surely be channeled into the sanitary system rather than across neighboring properties. (emphasis added).

No support in the testimony and evidence before the Board is given to support this conclusion, as none exists. Further, by its own language, the Board reveals that it is engaging in speculation as to the situation before it, which can not be validly considered a "ground" for its decision.

It is quickly apparent that a comparison of the Board's Opinion with the record before it, including the hearing and documents contained in the Board's file, that the Board has failed to issue a decision in compliance with applicable law. As such, the Board's opinion should be reversed by this Court.

II. Expert Testimony

At the Hearing before the Board, Petitioners had one expert witness, Mr. William Davis, testify as to the site conditions with respect to the variance requested. Protestants called one expert witness in response, Mr. James Markle, Jr., an employee of Baltimore County.

As stated in Part I, above, the opinion of the Board merely provided a brief synopsis of the testimony of these expert witnesses. The Board failed to make specific findings of fact, failed to resolve areas of disagreement to which testimony was elicited, and gave no reason, justification or reference to the record to support its apparent favoring of the testimony of Protestants' expert. Despite the omission in the opinion as to which experts testimony was given more weight by the Board, the conclusions and decision reached cause one to infer that Petitioner's expert testimony was adopted by the Board.

Notwithstanding the Board's failure to detail its findings relative to the expert witnesses, the testimony of the expert witness for the Protestants lacks any probative value. As stated

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by the Court of Special Appeals in Anderson v. Sawyer 23 Md.

App. 612, 618, 320 A. 2d 716, 720-721 (1974):

In reviewing the evidence before the [Baltimore County] Board [of Appeals] it must be noted that the opinion or conclusion of an expert or lay witness is of no greater probative value than that warranted by the soundness of his underlying reasons and facts. [Citations omitted]. Thus, unsupported conclusions of witnesses to the effect that a proposed use will or will not result in harm amount to nothing more than vague and generalized expressions of opinion which are lacking in probative value.

Mr. Markle, in his direct examination by counsel for Protestants concluded that paving the site will not substantially increase the runoff on the site that currently exists. (See Transcript, p.86). However, no basis is given by Mr. Markle to support this conclusion. No where does Mr. Markle point to any studies undertaken by himself or others within his department. Similarly, no where does Mr. Markle identify how he reached this conclusion. In fact, Mr. Markle testified, on cross-examination, that he made no calculations himself in reaching the conclusion contained in his Memorandum dated June 20, 1983. (Transcript, p.90).

In addition, no evidence was presented by Protestant's expert to rebut that undue hardship, if compliance with the paving regulation is mandated, would be suffered by the Petitioner, or that granting the variance would cause "substantial injury to public health, safety and general welfare".

In sharp contrast to the testimony of Mr. Markle, Petitioners' expert witness, Mr. Davis, testified extensively as to the bases for his conclusions. Mr. Davis prepared a Hydrologic Summary, with calculations of the runoff conditions on the site, which was admitted as Petitioners' Exhibit No. 2. (Transcript, p. 39). Further, in preparation of the Hydrologic Summary, Mr. Davis used source materials such as Baltimore County Design Manual (Transcript, p.43) and Soil Conservation Service Booklet

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TC55, urban hydrology (Transcript, p.43), all in conjunction with visits to the property (Transcript, pp.35, 43).

In summary, the only probative evidence before the Board was presented by Petitioner's expert witness, Mr. Davis. Mr. Davis' conclusion that requiring compliance with the regulation, i.e. paving the surface, would cause substantial harm and practical difficulty or reasonable hardship to Petitioner is uncontroverted except as to the bald conclusions asserted by Protestants witness. As such, the Board's conclusion, which apparently adopt that of the Protestant's expert witness should be reversed as not being supported by the evidenced before it.

III. Requirements To Grant Variance

The granting of the variance petitioned for here is controlled by Section 307 of the Baltimore County Zoning Regulations, which states, in pertinent part:

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 all street 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. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off street parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare.

The overwhelming evidence, and the only evidence of probative value, shows that the Petitioner more than met the requirements for the granting of the variance. The only probative evidence shows that the granting of the variance will allow the Petitioner to implement a site plan wherein substantially less runoff of water would occur onto neighboring properties. Mr. Davis' testimony and conclusions, which are uncontroverted, prove that granting of the variance would promote the public health, safety and general welfare.

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The practical difficulty or undue hardship which will result if compliance with the regulation is required is found in the testimony of Petitioner, Mr. Szyman, and in conjunction with the Petitioners' expert witness, Mr. Davis. Their testimony, which was not rebutted addressed the problems which have been associated with the property and the attempts to remedy the drainage of water from the site. Mr. Szyman stated that if the site was paved, there would be an increase in drainage of water into neighboring properties (Transcript, pp.12-13). In addition, any alternative plans involving obtaining of easements across neighboring properties would be impracticable, as attempts in the past to obtain easements have always been without success (Transcript, p.15). Finally, Mr. Szyman testified as to the substantial cost of paving the property over the use of crusher run, as requested in this variance petition (Transcript, pp. 15, 25). Mr. Davis, on the basis of his studies of the site, concluded a reasonable method of handling the drainage problem could not be reached if paving was required (Transcript, p.38). Their testimony clearly shows the practical difficulty and unreasonable hardship which would be caused if the site must be paved.

Further, the Board, in its opinion, nowhere makes a finding of fact or provides a conclusion that Petitioners have not met the requirements for variance pursuant to Section 307.

IV. Conclusion

In conclusion, for the reasons stated in Petitioners' Petition for Appeal and for the reasons stated hereinabove, the decision and opinion of the County Board of Appeals for Baltimore

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James R. Szyman - Lorraine E. Szyman

IN THE CIRCUIT COURT

FOR

Vs.

County Bd. of Appeals of Balto. Co.

BALTIMORE COUNTY

Docket 16 Folio 214

Case No. 84-2-159

NOTICE OF FILING OF RECORD

TO: Arvin E. Rosen - Dennis J. Hoover
Siskind & Rosen
2 E. Fayette St. Balto. Md. 21202

June Holmen
Co. Bd. of Appeals
Mail Stop 2205

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on May 24, 1984.

Clement J. Carline
Clerk

FILED MAY 24 1984

James R. Szyman, et ux
File No. 83-285-A

2.

August 1, 1983 Order of Deputy Zoning Commissioner denying the variance

August 19, 1983 Order of Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner

February 2, 1984 Hearing on appeal before County Board of Appeals

April 4, 1984 Order of County Board of Appeals affirming Deputy Zoning Commissioner's Order of August 1, 1983, and denying the variance petitioned for

May 1, 1984 Order for Appeal filed in the Circuit Ct. for Baltimore County by Arvin E. Rosen, Esq., on behalf of Petitioners

May 1, 1984 Certificate of Notice sent to all interested parties

May 14, 1984 Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County

May 23, 1984 Transcript of testimony filed

Petitioners' Exhibit No. 1 - Letter to Mr. Homer, June 15, 1983, from H. Pistel

" " " 2 - Hydrologic Summary prepared by Whitney, Bailey, Cox & Magnani

People's Counsel's Exhibit No. 1 - Zoning Violation Order, 9/22/83

" " " 2 - Letter dated 5/21/82 to James Szyman from E.M. Eckhardt, Health Dept.

Protestants' Exhibit No. 1 - Plat dated 4/20/83

" " " 2 - Plat dated June, 1980

" " " 3 - Final Drainage Computations

" " " 4 - Series of photos

" " " 5 - Photo of dust problem, 7/1983

May 24, 1984 Record of proceedings filed in the Circuit Ct. for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Dept. of Baltimore County and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

CC: Arvin E. Rosen, Esq.
G. Scott Barhight, Esq.
People's Counsel

Respectfully submitted,

June Holmen
June Holmen, County Board of Appeals

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COUNTY BOARD OF APPEALS
JUN 14 1984

County, which denied the variance requested, should be reversed.

Arvin E. Rosen

Dennis J. Hoover
Dennis J. Hoover
Siskind, Burch, Grady and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 25th day of June, 1984, a copies of the foregoing Memorandum were mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esquire, Assistant County Solicitor, Office of Law, Court House, Towson, Maryland 21204; Mr. Arnold Jablon, Zoning Commissioner, Court House, Towson, Maryland 21204; G. Scott Barhight, Esquire, Nolan, Plumhoff & Williams, Chartered, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; and Phyllis Cole Freigman, Attorney, People's Counsel for Baltimore County and Peter Max Zimmerman, Esquire, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

Dennis J. Hoover
Dennis J. Hoover

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IN THE MATTER
OF THE APPLICATION OF
JAMES R. SZYMAN, ET UX
FOR VARIANCE FROM
SECTION 409.2.c(2) OF THE
BALTIMORE COUNTY
ZONING REGULATIONS
SIS EBENEZER ROAD 450'
W. C/1 OF EASTERN AVENUE
15th DISTRICT
BEFORE THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY
NO. 83-285-A

IN THE
CIRCUIT COURT
OF
BALTIMORE COUNTY
Case No. 84-2-159
Docket 16, folio 214

PETITION PURSUANT TO MARYLAND RULE B2.e.

James R. Szyman and Lorraine E. Szyman, by their attorneys, Arvin E. Rosen, Dennis J. Hoover and Siskind and Rosen, as and for their petition pursuant to Maryland Rule B2.e., respectfully state:

I. ACTION APPEALED FROM

1. This proceeding is an appeal from an Order by the County Board of Appeals of Baltimore County dated April 4, 1984, Appeal No. 83-285-A, affirming the Order of the Deputy Zoning Commissioner dated August 1, 1983, and denying the variance petitioned for by Appellants.

II. ERROR COMMITTED BY THE AGENCY

2. The Opinion of the Board inadequately sets forth the basis for the decision by failing to specifically discuss and resolve areas of dispute between the several experts and witnesses and their respective testimony, and by further failing to otherwise specifically identify findings of fact adduced from the evidence upon which the decision rests.

3. The decision of the County Board of Appeals affirming the Order of the Deputy Zoning Commissioner is invalid, illegal, arbitrary and capricious for reasons including, but not limited to, the following:

A. The Board failed to state its reasons for favoring

IN THE MATTER OF
JAMES R. SZYMAN, ET UX
FOR VARIANCE FROM
SEC. 409.2.c(2) OF THE
BALTIMORE COUNTY ZONING
REGULATIONS, S/S EBENEZER
ROAD 450' W. C/1 OF EASTERN
AVENUE - 15th DISTRICT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

JAMES R. SZYMAN, ET UX,
PETITIONERS-APPELLANTS

Misc. File No. 16

FILE NO. 83-285-A

Folio No. 214

File No. 84-M-159

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

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and Joanne L.

Suder, 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. 83-285-A

May 12, 1983 Petition of James R. Szyman, et ux, for zoning variance from Section 409.2.c(2) to allow parking, maneuvering areas and driveways to be paved with crusher run in lieu of the required macadam, tar and chip, etc.

May 12, 1983 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for June 21, 1983, at 10:45 a.m.

June 2, 1983 Certificate of publication in newspaper - filed

June 6, 1983 Certificate of Posting of property - filed

May 31, 1983 Comments of Baltimore County Director of Planning - filed

June 14, 1983 Comments of Baltimore County Zoning Plans Advisory Committee - filed

June 21, 1983 At 10:45 a.m. hearing held on petition by Deputy Zoning Commissioner

opinions of Protestants' expert witnesses over those of Appellants' expert witness.

B. The Board was presented with no probative evidence that a grant of the variance requested would violate in any manner or respect the spirit and intent of the applicable zoning regulations or cause substantial injury to or otherwise jeopardize public health, safety and general welfare.

C. The Board's stated reasons for its denial of the requested variance were not supported by, or found in, the evidence introduced before it.

D. The overwhelming weight of the evidence supports Appellants' position.

4. The Board has failed to comply with the requirements of Art. 25A, §5(U) of the Annotated Code of Maryland by failing to include a statement of facts found and the grounds for its decision.

III RELIEF SOUGHT

WHEREFORE, Petitioners pray this Honorable Court:

1. Reverse the decision of the County Board of Appeals grant the variance requested by Petitioners.

2. Grant Petitioners such further relief as this Honorable Court deems appropriate after consideration of this cause.

Arvin E. Rosen

Dennis J. Hoover
Dennis J. Hoover
Siskind and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606

-2-

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 10th day of May, 1984 a copy of the foregoing Petition pursuant to Maryland Rule B2.e. was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esquire, Assistant County Solicitor, Office of Law, Court House, Towson, Maryland 21204; and Arnold Jablon, Zoning Commissioner, Court House, Towson, Maryland 21204.

Arvin E. Rosen

-3-

JAMES R. SZYMAN - #83-285-A

2.

basically compares water runoff on the site from its original state as a corn field through the site plan submitted in 1982, a fully paved site plan, and through the site plan submitted in February, 1983, using crusher run as the surface. It was his testimony that the February, 1983 proposal represented the best of all proposals. He also testified, under cross-examination, that some storm water will still flow through the Fordyce property but that under the February, 1983 plan its volume would be reduced, if crusher run were permitted as the paving. This concluded Petitioner's case.

Mr. James G. Hoswell, Planner for Baltimore County, testified that it is the County policy to require a durable and dust free surface in all similar industrial uses, and that crusher run does not provide a durable and dust free surface. It was his testimony that crusher run allows the creation of potholes and any laxity on the application of calcium chloride produces a dust problem for the area. Therefore, the County's policy to require the durable and dust free surface.

Mr. James Markle, Jr., Chief of Storm Water Management for Baltimore County, next testified. He testified that he visited the site in June, 1983, and prepared the written comment, dated June 20, 1983, which is included in the case file. He affirmed once again these comments. He disagreed with Mr. Davis' use of curve #4 in Petitioner's Exhibit #2 stating that gravel is not the same as crusher run, and noting that crusher run is much less permeable. He also noted that whichever paving is used some runoff from the property will occur during major storms.

Mr. James Fordyce, 12526 Eastern Avenue, an abutting neighbor, next testified. He entered as Protestants' Exhibit #4 a series of photos showing storm water runoff flowing across his property. He also entered as Protestants' Exhibit #5 a photo taken July, 1983, showing a significant dust problem at that time. Mr. Daniel Wodarczyk, 12513 Eastern Avenue, also an abutting neighbor, testified that the crusher run, when frozen, allows the same runoff as would a macadam surface. He testified that he has suffered plant and tree loss, and he attributes this to the runoff from the Szyman's property. Both neighbors asked the County to enforce its regulations and require the lot to be paved with a durable and dust free surface. Both neighbors also testified that they had refused requests for easements since they did not want the storm water from this site flowing over their respective properties. This completed Protestants' case.

IN THE MATTER OF THE APPLICATION OF JAMES R. SZYMAN, ET UX FOR VARIANCE FROM SEC. 409.2.c(2) OF THE BALTIMORE COUNTY ZONING REGULATIONS S/S EBENEZER RD., 450' W. c/1 OF EASTERN AVE. 15th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Doc. No. 16

Folio No. 214

File No. 84-M-159

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier, and Joanne L. Suder, 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, Arvin E. Rosen, Esq. and Dennis J. Hoover, Esq., 2 East Fayette St., Baltimore, Md. 21202, Counsel for Petitioners; James R. Szyman, et ux, 6923 Ebenezer Rd., Baltimore, Md. 21220, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Daniel Wodarczyk, 12518 Eastern Ave., Baltimore, Md. 21220, Protestant; Donald Wenger, 12532 Eastern Ave., P. O. Box 0, Chase, Md. 21027, Protestant; James Fordyce, 12526 Eastern Ave., Baltimore, Md. 21220, Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

JAMES R. SZYMAN - #83-285-A

3.

After careful consideration of all the testimony and evidence presented, the Board is of the opinion that the requested variance should be denied. The Board takes special note that the business conducted on the site is that of a certified hazardous waste hauler and cleaner. The paving of the areas in question will alleviate the dust problem considerably. By proper planning and engineering of the paving elevations, the bulk of any storm water can surely be channeled into the sanitary system rather than across neighboring properties. By paving the requested areas at least most of the contaminated water, from the products that constitute the business, will be directed into the sanitary system rather than be allowed to leach or percolate into ground water systems or collect in potholes inevitable in a crusher run surface. For these reasons the Board is of the opinion that the Deputy Zoning Commissioner's Order of August 1, 1983 is correct and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of April, 1984, by the County Board of Appeals, ORDERED that the Order of the Deputy Zoning Commissioner, dated August 1, 1983, be and is hereby AFFIRMED, and that the variance petitioned for, be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

LeRoy B. Spurrier
LeRoy B. Spurrier

Joanne L. Suder
Joanne L. Suder

James R. Szyman, et ux
Case No. 83-285-A

2.

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Arvin E. Rosen, Esq. and Dennis J. Hoover, Esq., 2 East Fayette St., Baltimore, Md. 21202, Counsel for Petitioners; James R. Szyman, et ux, 6923 Ebenezer Rd., Baltimore, Md. 21220, Petitioners; G. Scott Barhight, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; Daniel Wodarczyk, 12518 Eastern Ave., Baltimore, Md. 21220, Protestant; Donald Wenger, 12532 Eastern Ave., P. O. Box 0, Chase, Maryland 21027, Protestant; James Fordyce, 12526 Eastern Ave., Baltimore, Md. 21220, Protestant; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 1st day of May, 1984.

June Holmen
County Board of Appeals of Baltimore County

12-2/B22
4-17-84

IN THE MATTER OF JAMES R. AND LORRAINE E. SZYMAN FOR ALLEGED ZONING VIOLATION ON PROPERTY LOCATED AT 6923 EBENEZER ROAD 15th DISTRICT BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. 83-285-A

IN THE CIRCUIT COURT OF BALTIMORE COUNTY

ORDER FOR APPEAL BY JAMES R. SZYMAN AND LORRAINE E. SZYMAN

Mr. Clerk:

Please enter an appeal pursuant to Rule B2, Chapter 1100, Maryland Rules of Procedure, on behalf of James R. Szyman and Lorraine E. Szyman from the written Order issued April 4, 1984 by the County Board of Appeals of Baltimore County in Proceeding No. 83-285-A.

Arvin E. Rosen
Dennis J. Hoover
Siskind and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606
Attorneys for Appellants

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COUNTY BOARD OF APPEALS
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IN THE MATTER OF THE APPLICATION OF JAMES R. SZYMAN, ET UX FOR VARIANCE FROM SEC. 409.2.c(2) OF THE BALTIMORE COUNTY ZONING REGULATIONS S/S EBENEZER ROAD 450' W. c/1 OF EASTERN AVE. 15th DISTRICT

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

NO. 83-285-A

OPINION

This case comes before the Board of Appeals on appeal from a decision of the Baltimore County Deputy Zoning Commissioner, dated August 1, 1983, denying the requested variance to allow parking, maneuvering areas and driveways to be paved with crusher run instead of the required macadam, tar and chip, etc. The case was heard on February 2, 1984 in its entirety.

First heard was argument as to whether or not this Board is empowered to grant this request. Section 307, B.C.Z.R. states: "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." Since the case before the Board is directly related to the parking and maneuvering areas and since §307 specifically notes "offstreet parking," the Board finds that it is, in fact, empowered to decide this matter.

Mr. James R. Szyman, property owner, testified that he now has the necessary permit to erect the required screening. He also stated that the drainage problem has been greatly corrected since he now has permission from Baltimore County to discharge the storm water from the site into the sanitary sewer system already in existence, and has installed a flow meter to measure this discharge. He testified that the property is now surfaced with crusher run and that calcium chloride is periodically applied for dust control. He also stated that he has requested easements for runoff water control from all adjacent property owners, including the railroad, but has not been able to obtain same from any property owner. He further testified that an average estimate for paving from three paving contractors came to \$85,000. This basically concluded his testimony.

Mr. William Davis, an engineer with Whiting, Bailey, Cox and Magnani, testified that he prepared the site plan for this property. He also prepared Petitioner's Exhibit #2, a detailed study of the water problems associated with this site. This study

JAMES R. SZYMAN and LORRAINE E. SZYMAN

Appellants

vs.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Case No. 84-M-159

Docket 16, Folio 214

MEMORANDUM OPINION

The Appellants, James R. Szyman and Lorraine E. Szyman, are owners of property located at 6923 Ebenezer Road in Baltimore County. Appellants filed a Petition for Variance from section 109.2.c(2) of the Baltimore County Zoning Regulations (hereinafter "Regulations"), which provides that:

"Any parking or storage space for more than 5 vehicles shall provide a durable and dustless surface, and shall be properly drained."

Appellants sought approval to permit their parking, maneuvering areas and driveways to be paved with crusher run instead of the required macadam, tar and chip, etcetera.

On August 1, 1983, the Deputy Zoning Commissioner (hereinafter "Commissioner") issued a decision denying the Petition for Variance. Appellants filed an appeal from the Commissioner's decision and, on February 2, 1984, the County Board of Appeals for Baltimore County (hereinafter "the Board") conducted a de novo hearing. On April 4, 1984, the Board filed an Order in which it affirmed the Order of the Commissioner and denied the

requested variance. Appellants appealed the Board's decision to this court, which held a hearing on August 27, 1984. Appellants contend that the decision of the Board is invalid, illegal, arbitrary and capricious and should be reversed for these reasons.

One of Appellants' arguments is that the Board failed to comply with the requirements of MD. ANN. CODE art. 25A, sec. 5 (U) (1981 Repl. Vol.) which provides, in part,:

"[I]t shall file an opinion which shall include a statement of the facts found and the grounds for its decision."

The Board's Opinion summarizes the testimony taken at the hearing and recites its conclusions. Although the Board could have been more explicit in expressing its determinations, the court concludes that the facts found and the grounds for decision are sufficiently implied in the Opinion of the Board so that the basis for the decision is clear. Therefore, there is no merit in Appellants' contention that the decision of the Board is procedurally defective.

Appellants also argue that the weight of the evidence supports a grant of the variance rather than a denial. The test to be applied by this court in review of the action of the Board was succinctly expressed by the Court of Appeals in Supervisor of Assess. v. Ely, 272 Md. 77, 84 (1974):

"The common denominator for testing judicial review of an act of an administrative agency . . . has been defined as whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of

-2-

judicial judgment for agency judgment." Fairchild Hiller v. Supervisor of Assess., 267 Md. 519, 521 (1973); Supervisor of Assess. v. Panks, 252 Md. 600, 610 (1969); Ins. Comm'r v. National Bureau, 248 Md. 292, 309-310 (1967); See also Comptroller v. Diebold, Inc., 279 Md. 401, 407 (1977).

Review of the record in these proceedings leads this court to the conclusion that the decision of the Board is proper and cannot be overturned by the court. The Board obviously considered all the evidence presented to it and found that the use of crusher run versus macadam is not permissible in light of the specific guidelines which govern the granting of variances. Section 307 of the Regulations provides in pertinent part:

"The Zoning Commissioner . . . and the County Board of Appeals, upon appeal, shall have and are hereby given the power to grant variances from . . . offstreet parking regulations . . . only in cases where strict compliance with the . . . Regulations . . . would result in practical difficulty or unreasonable hardship . . . Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said . . . offstreet parking . . . 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."

Three witnesses testified at the Board's hearing regarding the runoff of water from Appellants' property. Each stated that runoff will exist whether the surface is crusher run or macadam. Although the runoff may be greater with macadam, the Board reasonably concluded that it can be controlled by grading

-3-

to cause the water to flow into the storm drainage system. The Board also heard testimony from two witnesses concerning the dust problem. The Board concluded that "the paving of the areas in question will alleviate the dust problem considerably." Crusher run obviously causes a dust problem not associated with macadam. Thus, "a reasoning mind reasonably could have reached the factual conclusion the agency reached." Furthermore, the denial of the variance is appropriate because the use of crusher run is not in "strict harmony with the spirit and intent" of the regulations, which is to provide a properly drained, durable and dustless surface.

In addition, it is obvious to this court, upon review of the record, that Appellants have not established that "strict compliance with the . . . Regulations . . . would result in practical difficulty or unreasonable hardship" as required by section 307 of the Regulations. One of the Appellants testified that an average estimate for paving from three contractors is \$85,000. Appellant indicated that the cost of putting down crusher run, three years prior to the hearing, was somewhere between fifteen and eighteen thousand dollars. This testimony is inconclusive because no evidence was submitted to the Board with which to measure the impact of an \$85,000 expenditure on the Appellants or on their business. Finally, any hardship of expenditures required to be made in addition to the cost of putting down crusher run has been caused by Appellants themselves. A self-inflicted hardship cannot be the basis for a variance; in fact, it is a bar to relief. Salisbury Board of

-4-

Zoning Appeals v. Bounds, 240 Md. 547 (1965)

For all of the above reasons, the decision of the Board is hereby affirmed. Costs are to be paid by Appellants.

J. William Hinkel
J. WILLIAM HINKEL
JUDGE

DATED: 9/25/84

cc: Arvin E. Rosen, Esquire
G. Scott Barhight, Esquire
Peter Max Zimmerman, Esquire
County Board of Appeals of
Baltimore County

COUNTY BOARD OF APPEALS
RECEIVED
SEP 27 11:24
P 1-24

-5-


County Board of Appeals of Baltimore County
Room 200 Court House
Cobleskill, Maryland 21204
(301) 494-3180

April 4, 1984

Arvin E. Rosen, Esquire
2 East Fayette Street
Baltimore, Md. 21202

Re: Case No. 83-285-A
James R. Szyman, et ux

Dear Mr. Rosen:

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
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: James R. Szyman
G. Scott Barhight, Esquire
Mr. Daniel Wodarczyk
Mr. Donald Wenger
Mr. James Fordyce
Phyllis C. Friedman
N. E. Gerber
J. G. Hoswell
A. Jablon
Jean M. H. Jung
J. F. Dyer
Arlene January

A. HERMAN SISKIND (1909-1984)
WILLIAM L. SISKIND
ARVIN E. ROSEN
DENNIS J. HOOVER

LAW OFFICES OF
SISKIND AND ROSEN
TWO EAST FAYETTE STREET
BALTIMORE, MD. 21202
February 8, 1982

TELEPHONE 529-8826
AREA CODE 301

Ms. Luba Drahosz
Amtrak
400 North Capital Street, N.W.
Washington, D.C. 20001

Attention: Real Estate Department

Dear Ms. Drahosz:

This letter will serve to confirm our conversation of last week regarding the request of my clients, James and Lorraine Szyman, to obtain an easement from the railroad for the purpose of draining water from their property. Their property is located at 6923 Ebenezer Road, Baltimore County, Maryland. I am enclosing herewith the following documents to assist you in locating the site where their property adjoins that of the railroad:

- Exhibit 1 - Vicinity Map
- Exhibit 2 - Vicinity Map to smaller scale
- Exhibit 3 - Vicinity Map to smaller scale

Attached as Exhibit 4 is a blow-up of where the proposed concrete box culvert would be placed. Exhibit 5 shows the topography of the area and how we propose to have the property drain. At the present time, our engineers have advised that the easiest way to alleviate the drainage problem on the subject property is to discharge onto the railroad's property as shown on Exhibit 5.

Please consider this request at your earliest convenience as there are certain matters pending in Baltimore County relating to these issues which we are most anxious to resolve.

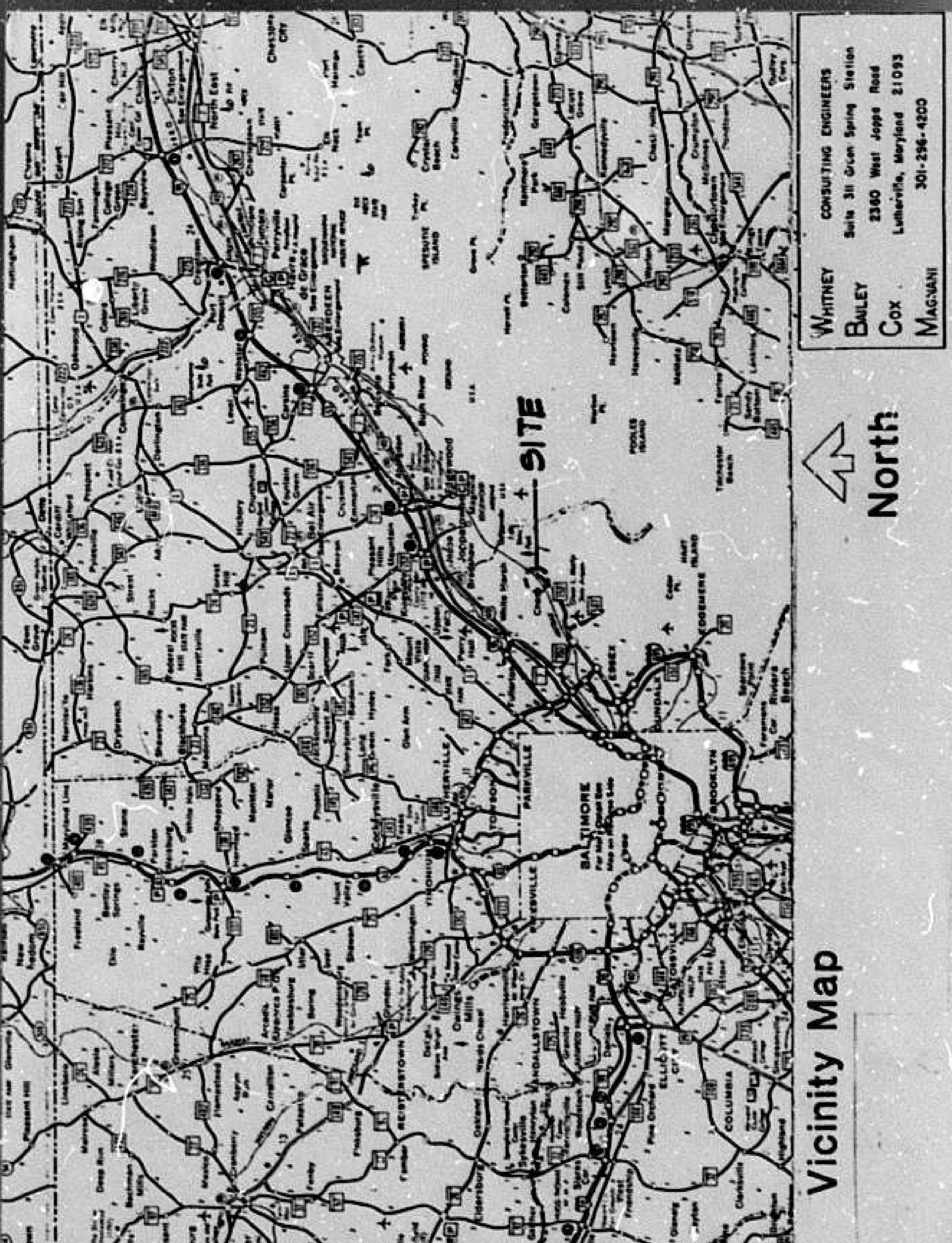
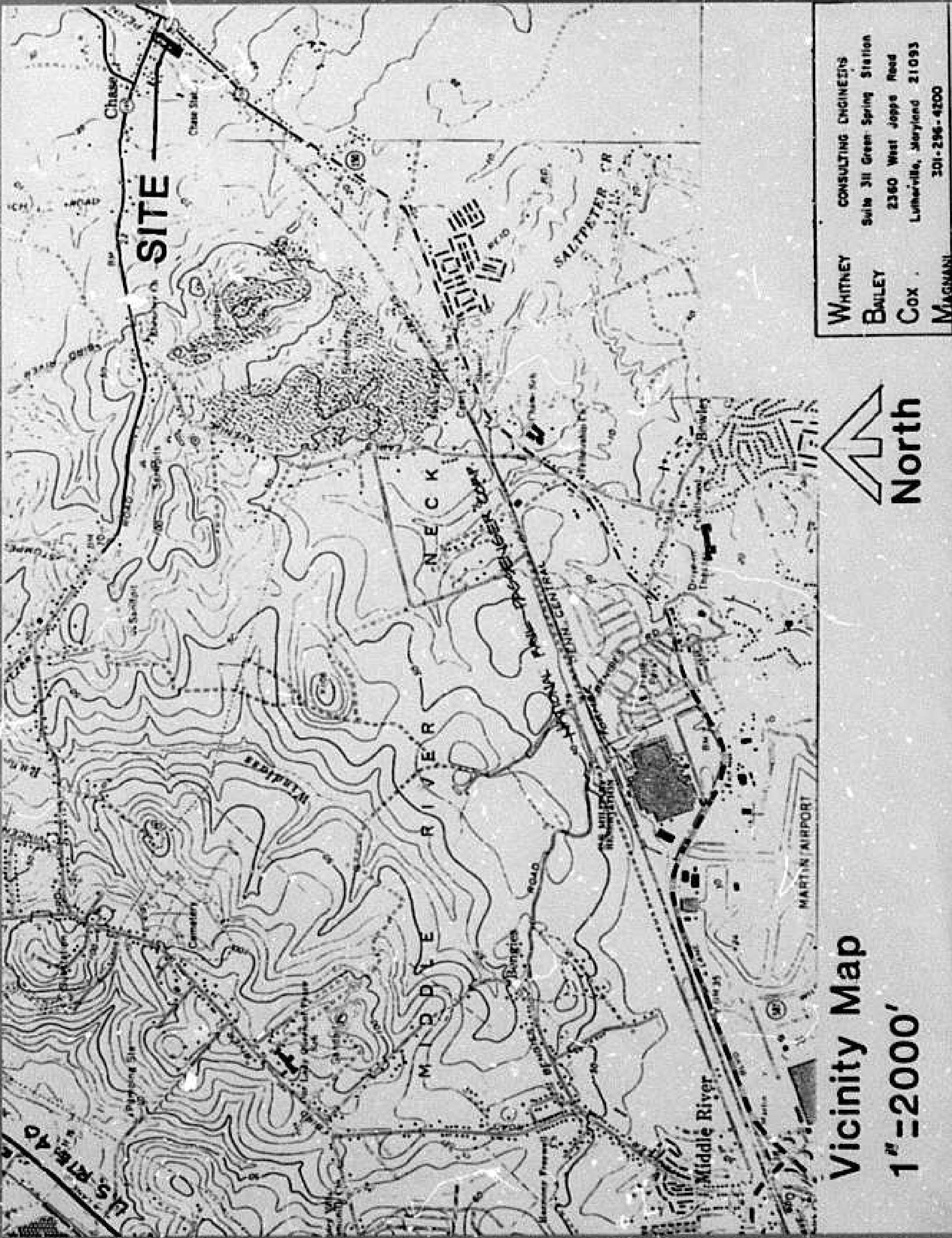
Very truly yours,

Arvin E. Rosen

AER:pnj
enclosures

cc: Mr. James Szyman

PETITIONER'S
EXHIBIT 2





County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204

(301) 494-3180

May 1, 1984

G. Scott Barhight, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

Dear Mr. Barhight:

Re: Case No. 83-285-A
James R. Szyman, et ux

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holman
June Holman, Secretary

Encl.

cc: Daniel Wodarczyk
Donald Wenger
James Fordyce
Phyllis C. Friedman
N. Gerber
J. Haswell
J. Jung
J. Dyer
A. Jablon
A. January

May 1, 1984

BILLED TO:

Arvin E. Rosen, Esq.
Dennis J. Hoover, Esq.
2 E. Fayette St.
Baltimore, Md. 21202

Cost of certified document in Case No. 83-285-A \$ 22.00
James R. Szyman, et ux
S/S Ebenezer Rd., 450' W of
c/l of Eastern Ave.
15th District

MAKE CHECKS PAYABLE TO:

Baltimore County, Maryland

REMIT TO:

County Board of Appeals
Rm. 200, Court House
Towson, Md. 21204



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204

(301) 494-3180

May 1, 1984

Arvin E. Rosen, Esq.
Dennis J. Hoover, Esq.
2 E. Fayette Street
Baltimore, Md. 21202

Gentlemen:

Re: Case No. 83-285-A
James R. Szyman, et ux

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holman
June Holman, Secretary

Encls.

cc: James R. Szyman, et ux

LAW OFFICES OF
SISKIND AND ROSEN
TWO EAST FAYETTE STREET
BALTIMORE, MD 21202

TELEPHONE: 538-6808
AREA CODE 301

May 14, 1984

County Board of Appeals of
Baltimore County
Court House, Room 200
Towson, Maryland 21204

Re: Case No. 83-285-A

Gentlemen:

Enclosed herewith is our check in the amount of \$22.00 for the cost of certified documents as reflected in the enclosed copy of your bill dated May 1, 1984.

Very truly yours,

Jerold A. Moses
Jerold A. Moses

JAM/tc
Enclosure
J4:09

RECEIVED APPEALS
COUNTY BOARD OF APPEALS
JUN 15 A 11:38

- 2 -

I HEREBY CERTIFY that on this 8th day of June, 1984, a copy of the foregoing Answer to Petition on Appeal was mailed to Arvin E. Rosen, Esquire, and Dennis J. Hoover, Siskind and Rosen, Two East Fayette Street, Baltimore, Maryland 21202.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
COUNTY BOARD OF APPEALS
JUN 11 8 3 19

JAMES R. SZYMAN, et ux, : IN THE CIRCUIT COURT
Appellant : FOR BALTIMORE COUNTY
v. : AT LAW
PEOPLE'S COUNSEL FOR : Misc. No. 84M159
BALTIMORE COUNTY, :
Appellee : : : : :
ANSWER TO PETITION ON APPEAL

People's Counsel for Baltimore County, Protestant below and Appellee herein, answers the Petition on Appeal heretofore filed by the Appellant, viz:

1. That the Appellee admits the allegations made and contained in the first paragraph of said Petition.
2. That the Appellee denies the allegations made and contained in the second, third and fourth paragraphs, and every subparagraph thereof.
3. Further answering, Appellee states affirmatively that the decision of the Board herein was proper and justified by the evidence before it and that the decision of the Board should therefore be sustained as being properly and legally made.

AND AS IN DUTY BOUND, etc.,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

IN THE MATTER OF :
JAMES R. SZYMAN, ET UX :
FOR VARIANCE FROM :
SEC. 409.2.c(2) OF THE :
BALTIMORE COUNTY ZONING :
REGULATIONS, S/S EBENEZER :
ROAD 450' W. c/l of EASTER :
AVENUE - 15th DISTRICT :
JAMES R. SZYMAN, ET UX, :
PETITIONERS - APPELLANTS :
FILE No. 83-285-A :
* * * * *

ANSWER TO PETITION

JAMES FORDYCE and MARTHA L. FORDYCE, Protestant - Appellees, by their attorneys, G. Scott Barhight and Nolan, Plumhoff & Williams, Chartered, as and for their Answer pursuant to Maryland Rule B9, respectfully state:

- 1) The Appellees admit the facts asserted in paragraph 1 of the Petition;
- 2) The Appellees deny the facts asserted in paragraph 2 of the Petition. The Opinion of the Board more than adequately sets forth the facts and basis of its decision.
- 3) The Appellees deny the facts asserted in paragraph 3 of the Petition. The Board properly stated the reasons for its decision, there was adequate evidence to support the decision, and the overwhelming weight of the evidence supports Appellee's position.

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COUNTY BOARD OF APPEALS
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LAW OFFICE
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

4) The Appellees deny the facts asserted in paragraph 4 of the Petition. Upon a review of the Opinion of the Board, it is clear that the Board complied with the requirements of Article 25A, §5(U) of the Annotated Code of Maryland.

WHEREFORE, the Appellees pray that this Honorable Court:

- A) Affirm the decision of the County Board of Appeals, and
- B) Grant Appellees such other and further relief as the nature of their cause may require.

G. Scott Barhight

Nolan, Plumhoff & Williams,
Chartered
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 8TH day of June 1984, a copy of the foregoing Answer to Petition was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esquire, Assistant County Attorney, office of Law,

LAW OFFICE
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

G. Scott Barhight

PEOPLE'S COUNSEL'S MEMORANDUM

People's Counsel hereby adopts by reference the points and authorities set forth in the "Fordyce Memorandum of Law" concurrently filed in this case.

1. Plaintiff/Appellant is wrong to complain of any alleged failure of the County Board of Appeals to make findings of facts. Following the opinion of the administrative agency, Appellant never presented its contentions to the agency or requested reconsideration. See Chertkoff v. Department of Natural Resources, 43 Md. App. 10, 402 A.2d 1315 (1979). In any event, the decision of the County Board of Appeals sufficiently states the reasons for denial of the petition.

"1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

"3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

3. Given the scope of judicial review in variance cases (also set forth in McLean), the Court must affirm so long as the Board's decision is fairly debatable. Here, that standard is more than met, and the Court should have no difficulty approving the decision of the agency.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

Peter Max Zimmerman
Peter Max Zimmerman

PHC No. 772 , September Term, 1984

December 6, 1984 - Line of Dismissal
filed by counsel for appellants.
Appeal Dismissed.

December 6, 1984 - Mandate Issued.

In Circuit Court: Baltimore County (Misc. No. 84-M-159)

In Court of Special Appeals:

Filing Record on Appeal	
Printing Brief for Appellant	
Reply Brief	
Portion of Record Extract — Appellant	
Printing Brief for Cross-Appellee	

Printing Brief for Appellee	100
Portion of Record Extract — Appellee	100
Printing Brief for Cross-Appellant	100

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed
the seal of the Court of Special Appeals, this sixth day
of December A.D. 19 84.

Howard E. Friedman
Clerk of the Court of Special Appeals of Maryland

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE

Annapolis, Md. 21401-1698

(301) 269-3846 (DIRECT LINE)
 (301) 261-2920 (WASHINGTON AREA)
 TTY FOR DEAF
 (301) 269-2600 (DIRECT LINE)
 (301) 565-0450 (WASHINGTON AREA)

December 6, 1984

Elmer H. Kahline, Jr., Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: James R. Szyman v. Baltimore County Board of Appeals
PHC No. 772, September Term, 1984
Your Misc. No. 84-M-159

Dear Mr. Kahline:

Enclosed find a Line of Dismissal that was filed with this Court on December 6, 1984. We are making a copy for our files and sending the original to you for docketing.

Also, find enclosed the original mandate of this Court, reflecting this dismissal, which together with the Line should be placed in the record.

Very truly yours,

Howard E. Friedman
Clerk

REF:cd

Enclosure

cc: Robert L. Flanagan, Esquire
Arvin E. Rosen, Esquire
Thomas J. Bollinger, Esquire
G. Scott Barhight, Esquire
Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
Mr. Arnold Jablon

ROBERT J. BOOZE
CHIEF, SECURITY

RECEIVED
COUNTY BOARD OF APPEALS
MAY DEC -7 P 2:22

JAMES R. SZYMAN, ET UX 83-285-A

S/S Ebenezer Rd., 450' W of c/l of Eastern Ave.

15th District

Variance from Sec. 409.2.c(2) to allow parking, maneuvering areas and driveways to be paved with crusher run in lieu of the req. macadam, tar and chip, etc.

May 12, 1983 Petition filed
June 21, 1983 Hearing held on petition
Aug. 1, 1983 Order of D.Z.C. denying variance
Aug. 19, " Order for appeal to C.B. of A.
Feb. 2, 1984 Hearing on appeal before the Board
Apr. 4, " Order of the Board affirming D.Z.C.'s Order
May 1, " Order for Appeal filed in the Cir. Ct. by Arvin E. Rosen, Esq. on behalf of Petitioners
May 1, " Certificate of Notice sent
May 24, 1984 Record of proceedings filed in the Cir. Ct. for Balto. Cty.
Sept. 26 Board AFFIRMED by Judge J. Wm. Hinkel 9/27/84 - cc: A. Jablon A. January J. Hoswell
Oct. 15 Order for Appeal filed in the Court of Special Appeals by Robert L. Flanagan, Esq., Siskind, Burch, Grady and Rosen, on behalf of Petitioners, Szyman, et ux 10/16/84 - cc: A. Jablon A. January J. Hoswell
Dec. 6 Line of Dismissal filed in the C. of S.A. by Appellants
" 6 Mandate issued

A. HERMAN SISKIND (1909-1984)
WILLIAM L. SISKIND
ARVIN E. ROSEN
DENNIS J. HOOVER
JEROLD A. MOSES

LAW OFFICES OF
SISKIND AND ROSEN
TWO EAST FAYETTE STREET
BALTIMORE, MD. 21202

TELEPHONE 539-6606
AREA CODE 301

April 18, 1984

Mr. Arnold Jablon
Zoning Commissioner
Court House
Towson, Maryland 21204

Re: In the matter of James R. and Lorraine E. Szyman, et ux. Alleged zoning violation on property located at 6923 Ebenezer Road, 15th District, before the County Board of Appeals of Baltimore County No. 83-285-A

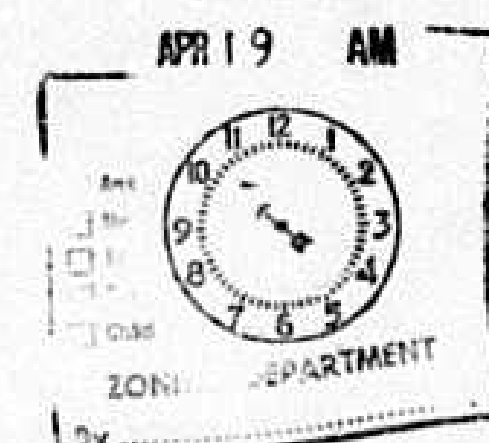
Dear Mr. Jablon:

Pursuant to Rule B2c I am hereby forwarding you a copy of the Order for Appeal which I intend to file in connection with the above-referenced case.

Very truly yours,

Arvin E. Rosen

AER:bb
Enclosure
cc: Thomas J. Bollinger, Esq.
3-21/A22



12-2/B22
4:17.64

IN THE MATTER OF
JAMES R. AND LORRAINE E. SZYMAN
FOR ALLEGED ZONING VIOLATION
ON PROPERTY LOCATED AT
6923 EBENEZER ROAD
15th DISTRICT
BEFORE THE COUNTY BOARD OF
APPEALS OF BALTIMORE COUNTY
No. 83-285-A

* IN THE
* CIRCUIT COURT
* OF
* BALTIMORE COUNTY

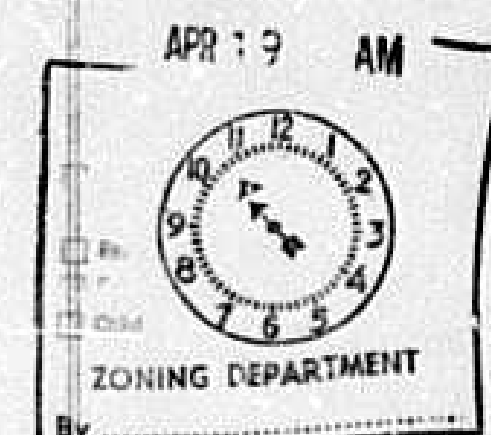
ORDER FOR APPEAL BY JAMES R. SZYMAN
AND LORRAINE E. SZYMAN

Mr. Clerk:

Please enter an appeal pursuant to Rule B2, Chapter 1100, Maryland Rules of Procedure, on behalf of James R. Szyman and Lorraine E. Szyman from the written Order issued April 4, 1984 by the County Board of Appeals of Baltimore County in Proceeding No. 83-285-A.

Arvin E. Rosen

Dennis J. Hoover
Siskind and Rosen
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606
Attorneys for Appellants



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

September 1, 1983

G. Scott Barhight, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Variance
S/S Ebenezer Rd., 450' W of c/l of
Eastern Avenue
James R. Szyman, et ux - Petitioners
Case No. 83-285-A

Dear Mr. Barhight:

Please be advised that an appeal has been filed by Arvin E. Rosen, attorney for the petitioners, 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 County Board of Appeals.

Sincerely,

Arnold Jablon
Zoning Commissioner

AJ:aj

cc: Daniel Wodarczyk
12518 Eastern Avenue
Baltimore, Maryland 21220

Donald Wenger
12532 Eastern Avenue
P. O. Box 0
Chase, Maryland 21027

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

A. HERMAN SISKIND (1909-1984)
WILLIAM L. SISKIND
ARVIN E. ROSEN
DENNIS J. HOOVER
JEROLD A. MOSES

LAW OFFICES OF
SISKIND AND ROSEN
TWO EAST FAYETTE STREET
BALTIMORE, MD. 21202

TELEPHONE 539-6606
AREA CODE 301

August 9, 1983

Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: 6923 Ebenezer Road
Case No. 83-285-A

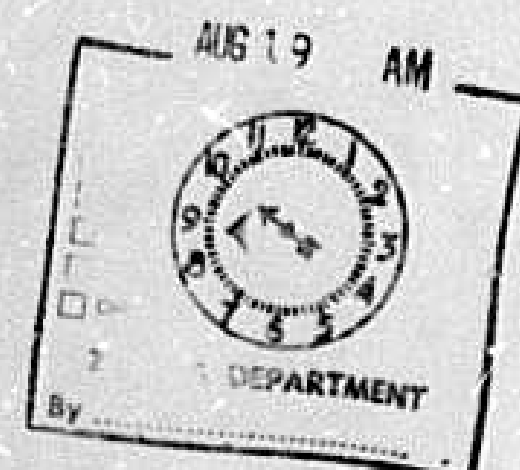
Dear Mr. Commissioner:

On behalf of James R. and Lorraine E. Szyman, owners of the above-referenced property, please be advised that this letter shall act as a Notice of Intention to Appeal the decision of the Deputy Zoning Commissioner of Baltimore County of August 1, 1983 with regard to the above-captioned case. Enclosed is our check representing costs of appeal.

Very truly yours,

Arvin E. Rosen

AER:bb
Enclosure
B35/12



A. HERMAN SISKIND (1909-1984)
WILLIAM L. SISKIND
ARVIN E. ROSEN
DENNIS J. HOOVER
JEROLD A. MOSES

LAW OFFICES OF
SISKIND AND ROSEN
TWO EAST FAYETTE STREET
BALTIMORE, MD. 21202
March 17, 1983

TELEPHONE 539-6606
AREA CODE 301

Mr. William E. Hammond
Zoning Commissioner
Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

Re: Petition for Zoning Variance
of James R. Szyman and
Lorraine E. Szyman
Item No. 188

Dear Mr. Hammond:

This morning I appeared in the Circuit Court for Baltimore County in connection with an appeal from your Order in Case No. 82-62-V (C-81-916). At the hearing, it was reported to Judge Sfkas that a revised site plan had been submitted to Baltimore County and that the above referenced variance was filed in an attempt to alleviate the problems which exist at the site. The Court granted a ninety (90) day continuance of the case to allow sufficient time for a hearing on the above referenced variance request. By this letter, I am requesting that this matter be promptly set in for a hearing so as to meet this time requirement. Thomas J. Bollinger, Assistant County Solicitor, has requested I inform you that he would also like to have this case heard within that time period.

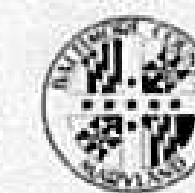
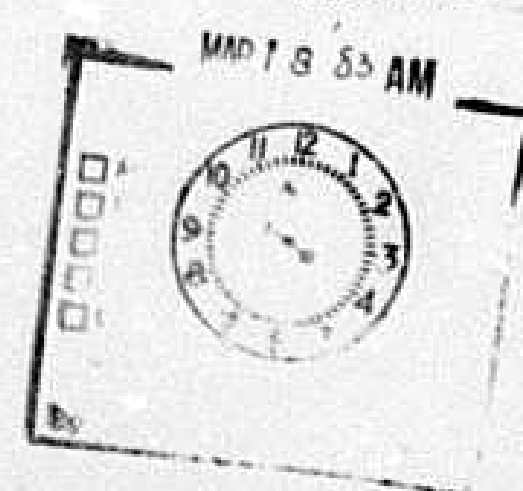
Thank you for your cooperation in this matter.

Very truly yours,

Arvin E. Rosen

AER:pnj
8-6/B9

cc: Thomas Bollinger, Esquire
Mr. James R. Szyman



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

August 1, 1983

Arvin E. Rosen, Esquire
Two East Fayette Street
Baltimore, Maryland 21202

RE: Petition for Variance
S/S of Ebenezer Rd., 450' W of the center
line of Eastern Ave. - 15th Election
District
James R. Szyman, et ux - Petitioners
NO. 83-285-A (Item No. 188)

Dear Mr. Rosen:

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

Very truly yours,

M.H. JUNG
Deputy Zoning Commissioner

JMH/mc

Attachments

cc: Scott Barhight, Esquire
204 West Pennsylvania Avenue
Towson, Maryland 21204

Mr. Daniel Wodarczyk
12518 Eastern Avenue
Baltimore, Maryland 21220

Mr. Donald Wenger
12532 Eastern Avenue
P.O. Box 0
Chase, Maryland 21027

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

CSA/PHC Form No. 83-285-A Mailed: November 5, 1984

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

James R. Szyman

PHC No. 772
September Term, 1984

vs.

Baltimore County Board of Appeals

ORDER

The Court of Special Appeals of Maryland, pursuant to Maryland Rule 1024 a. 1. Orders and directs that the above-captioned appeal proceed without a Prehearing Conference.

BY THE COURT

JUDGE

Date: November 5, 1984

cc: Elmer H. Kahline, Jr., Clerk
Circuit Court for Baltimore County
Robert L. Flanagan, Esquire
Arvin E. Rosen, Esquire
Thomas J. Bollinger, Esquire
Mr. Arnold Jablon
Phillips Cole Friedman, Esquire

*Mr. Clerk: Will you kindly place this Order with the record in this cause (Your Misc. No. 84-159). The date of this Order establishes commencement of the 10 day period under Md. Rule 1024 a. 2. and the 60 day period for transmittal of the record under Md. Rule 1025.

Edward E. Friedman
Clerk



851014
cc: C. 12

DEC 6 AM
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

JAMES R. SZYMAN, et al
VS.
BALTIMORE COUNTY BOARD OF APPEALS* September Term, 1984

PHC No. 772

DISMISSAL OF APPEAL

Appellants James R. Szyman and Lorraine E. Szyman by their attorneys Arvin E. Rosen and Robert L. Flanagan hereby dismiss the above captioned appeal.

Robert L. Flanagan

Arvin E. Rosen RLF

Arvin E. Rosen
Siskind, Burch, Grady and Rosen
Jefferson Building
Two East Fayette Street
Baltimore, Maryland 21202
(301) 539-6606

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 5th day of December, 1984, a copy of the foregoing Dismissal of Appeal was mailed, postage prepaid, to the County Board of Appeals of Baltimore County, Room 219, Court House, Towson, Maryland 21204; Thomas J. Bollinger, Esq., Assistant County Solicitor, Office of Law, Court House, Towson, Maryland 21204; Mr. Arnold Jablon, Zoning Commissioner, Court House, Towson, Maryland 21204; G. Scott Barhight, Esq., Nolan, Plunhoff & Williams, chartered, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; and Phyllis Cole Friedman, Attorney, People's Counsel for Baltimore County and Peter Max Zimmerman, Esquire, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

Robert L. Flanagan

10/10/84
TO CH. JUDGE
8

93-285-A

Court of Special Appeals
of Maryland
Annapolis, Md. 21401-1698

HOWARD E. FRIEDMAN
CLERK

ROBERT J. BOOZE
CHIEF DEPUTY

December 6, 1984

Elmer H. Kahline, Jr., Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: James R. Szyman, et al v. Baltimore County Board of Appeals
PHC No. 772, September Term, 1984
Your Misc. No. 84-M-159

Dear Mr. Kahline:

Enclosed find a Line of Dismissal that was filed with this Court on December 6, 1984. We are making a copy for our files and sending the original to you for docketing.

Also, find enclosed the original mandate of this Court, reflecting this dismissal, which together with the Line should be placed in the record.

Very truly yours,

Howard E. Friedman
Clerk

HEF:cdq

Enclosure

cc: Robert L. Flanagan, Esquire
Arvin E. Rosen, Esquire
Thomas J. Bollinger, Esquire
G. Scott Barhight, Esquire
Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
Mr. Arnold Jablon

MANDATE
Court of Special Appeals of Maryland

PHC No. 772, September Term, 1984

James R. Szyman

v.

Baltimore County Board of Appeals

December 6, 1984 - Line of Dismissal
filed by counsel for appellants.
Appeal Dismissed.

December 6, 1984 - Mandate Issued.

STATEMENT OF COSTS:

In Circuit Court: Baltimore County (Misc. No. 84-M-159)

Record
Stenographer's Costs

In Court of Special Appeals:

Filing Record on Appeal
Printing Brief for Appellant
Reply Brief
Portion of Record Extract - Appellant
Printing Brief for Cross-Appellee

Printing Brief for Appellee
Portion of Record Extract - Appellee
Printing Brief for Cross-Appellant

STATE OF MARYLAND, Set:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this sixth day of December A.D. 1984.

Howard E. Friedman
Clerk of the Court of Special Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

83-285-A

District 15 Date of Posting 6/6/83

Posted for: Petition for variance

Petitioner: James R. Szyman, et al

Location of property: 452 Eastern Ave., 152 N. of Eastern Ave.

Location of Signs: Front of property (various signs)

Remarks:

Posted by: Howard E. Friedman Date of return: 6/10/83

Number of Signs: 1

The Times

Middle River, Md., June 2, 1983

This is to certify that the annexed

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of successive weeks before the 2nd day of June, 1983.

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 2, 1983.

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on one time successive weeks before the 21st day of June, 1983, the first publication appearing on the 2nd day of June, 1983.

THE JEFFERSONIAN

S. Leach, Jr., Manager

Cost of Advertisement, \$22.75

Essex - Middle River Civic Council, Inc.

POST OFFICE BOX 5031
BALTIMORE, MARYLAND 21202

June 8, 1983
(Mrs.) Alberta Y. Pugh,
President

Mr. William E. Hammond
Zoning Commissioner
Office of Planning and Zoning
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Hammond:

It is in the opinion of the Essex-Middle River Civic Council, Inc. which has the paid membership of 27 civic organizations and 31 individuals to oppose the variance requested by Mr. James R. Szyman, located at the South side of Ebenezer Road, 450 ft. west of the centerline of Eastern Avenue.

The variance petition requests the use of crusher-run in lieu of the required macadam paving.

The Council opposes this variance because:

1. the crusher run has already been installed illegally and is subject of zoning violations. The Case, 82-M-175, is in appeal by the petitioner at the Circuit Court level.
2. the installation of the crusher-run has created drainage problems for adjacent properties.
3. it has created, and if approved, will continue to create excessive dust and dirt.
4. there are no guarantees that, if approved, petitioner would not spread additional crusher-run to cover small spills and stains from oil, as has been witnessed since 1980.
5. The privacy rights of neighbors has been abused since 1980 when the original approved site plan designated the area along the adjacent properties, the back of the warehouse, and along the Amtrack property to the fence as a non-use area. The petitioner is now requesting to continue to use this area.

Mr. William E. Hammond

-2-

June 8, 1983

The Council urges that this opposition be considered when making a decision regarding this variance.

Sincerely,

Alberta Y. Pugh / RP
(Mrs.) Alberta Y. Pugh,
President

AYP/lf

cc: Mr. J. Hessian, People's Counsel
2nd Floor
Old Courts Building
Towson, Maryland 21204

Dear Bill:

Since I am recuperating from surgery, I will not be able to oppose this variance in person. I hope you will consider the attached letter when a decision is made.

Sincerely,

Alberta
Alberta



May 25, 1983

Arvin E. Rosen, Esquire
2 E. Fayette Street
Baltimore, Maryland 21202

NOTICE OF HEARING

Re: Petition for Variance
S/S of Ebenezer Rd., 450' W of the
c/l of Eastern Avenue
James R. Szyman, et ux - Petitioners
Case No. 83-285-A

TIME: 10:45 A.M.

DATE: Tuesday, June 21, 1983

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE,

TOWSON, MARYLAND

cc: Mr. & Mrs. James Fordyce
12526 Eastern Avenue
Baltimore, Maryland 21220

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 115040

DATE COMMISSIONER OF
TOWSON COUNTY

DATE 7-16-87 ACCOUNT R-01-615-000

AMOUNT 100.00

RECEIVED BY S. L. L. + Rosen

FOR Filing fee to Room 188

25.00 per hour

045*****1000010 01000

VALIDATION OR SIGNATURE OF CASHIER

PETITION FOR VARIANCE

15th Election District

ZONING: Petition for Variance

LOCATION: South side of Ebenezer Road, 450 ft. West of the
centerline of Eastern Avenue

DATE & TIME: Tuesday, June 21, 1983 at 10:45 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake
Avenue, Towson, Maryland

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

Petition for Variance to allow parking, maneuvering areas
and driveways to be paved with crusher run in lieu of the
required macadam, tar and chip, etc.

The Zoning Regulation to be excepted as follows:

Section 409.2.c.(2) - required paving for parking, maneuvering areas and
driveway areas

All that parcel of land in the Fifteenth District of Baltimore County

Being the property of James R. Szyman, et ux, as shown on plat plan filed with
the Zoning Department.

Hearing Date: Tuesday, June 21, 1983 at 10:45 A.M.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue,
Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

WHITNEY, BAILEY, COX & MAGNANI

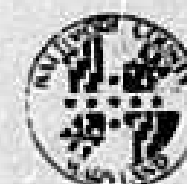
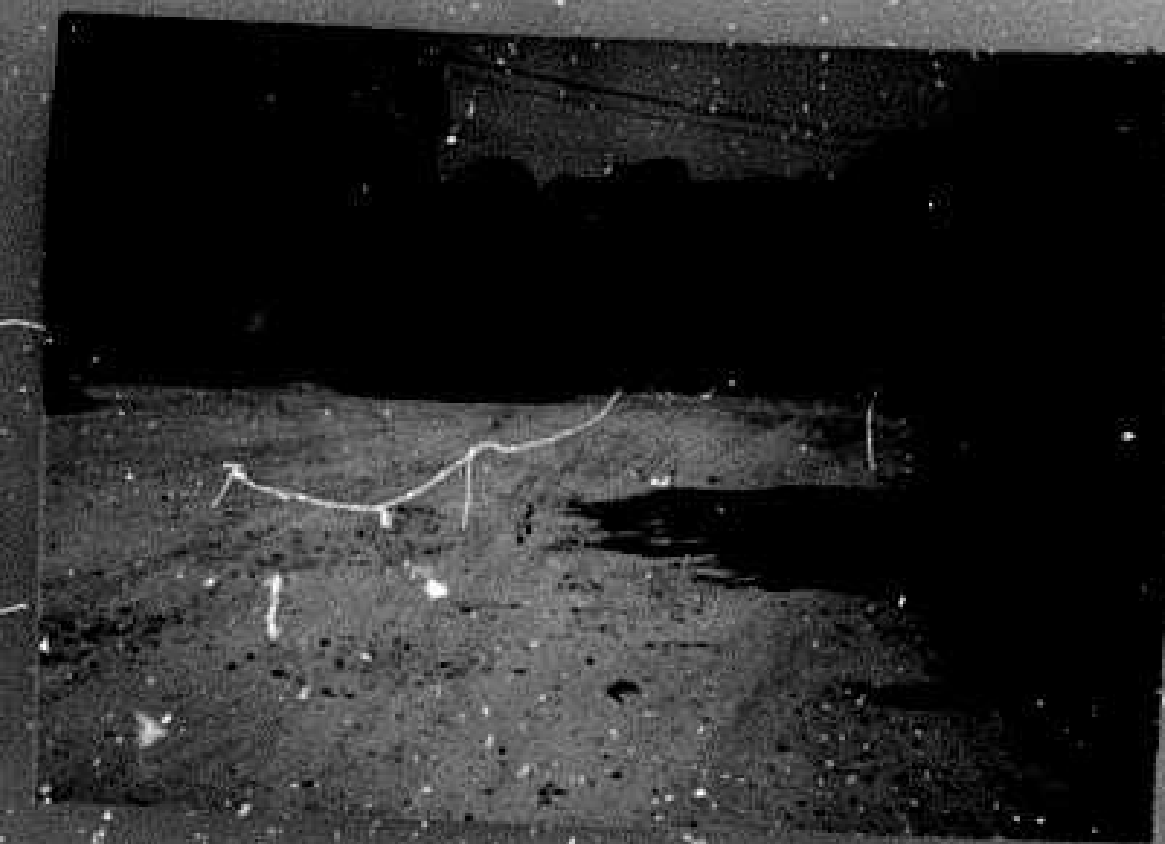
J&L Industries, Inc.
6923 Ebenezer Road
Baltimore County, Maryland

SURVEYOR'S DESCRIPTION

Beginning in the center of Ebenezer Road at a distance of approximately 450'
west of the center of Eastern Avenue (Md. Rte. 150) and running along the center
of Ebenezer Road along a line S 63° 36' E for a distance of 196.25 feet, thence
along a line S 46° 09' W for a distance of 382.1 feet, thence along a line S 49°
29' W for a distance of 233.48 feet, thence along a line N 51° 27' E for a
distance of 148.99 feet, thence northeasterly along a line curving towards the
left with a radius of 22,978 feet for a distance of 572.0 feet, more or less, to
the place of beginning, containing 2.30 acres of land, more or less.

9-7/A20

The aforementioned zoning regulation requires that
"any parking or storage space for more than five (5) vehicles
shall provide a durable and dustless surface, and should be
properly drained". The topography of the Petitioner's property
and other properties in the immediate vicinity is such that
severe drainage and run-off problems exist which have been the
subject of hearings before the Zoning Commissioner, the County
Board of Appeals, and the Circuit Court. Placement of a durable
and dustless surface on the property will so significantly
increase the run-off and drainage problems that no remedy will
be available to cure them. Alternatively, a crusher-run surface
will provide an absorbable base for the water and permit
resolution of the property's drainage problems. Petitioner
requires large portions of the property for parking and storage
space. Notwithstanding the undue financial hardship caused by
paving a large portion of the property, consulting engineers
have agreed that such paving would cause uncontrollable storm
water run-off. Alternatively, retaining a crusher-run surface
on the property would allow run-off controls to be implemented.
Further, compliance with the zoning regulations would cause
extensive damage to Petitioner and adjoining land owners.
Petitioner wishes to retain the crusher-run service currently on
the property. Granting the relief requested there will cause no
substantial injury to public health, safety, and general welfare.
Strict compliance with the Zoning Regulations of Baltimore
County would result in practical difficulty and undue hardship.



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 9, 1983

Arvin E. Rosen, Esquire
2 East Fayette Street
Baltimore, Maryland 21202

Re: Petition for Variance
S/S Ebenezer Rd., 450' W of the
c/l of Eastern Avenue
James Szyman, et ux - Petitioners
Case No. 83-285-A

Dear Mr. Rosen:

This is to advise you that \$55.05 is due for advertising and posting
of the above property.

Please make the check payable to Baltimore County, Maryland, and remit
to Arlene January, Zoning Office, Room 113, County Office Building, Towson,
Maryland 21204, before the hearing.

Very truly yours,

WILLIAM E. HAMMOND
Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 119431

DATE 7/27/83 ACCOUNT R-01-615-000

AMOUNT \$55.05

RECEIVED BY Arvin E. Rosen, Esquire

FOR Advertising & Posting Case #83-285-A
(James Szyman, et ux)

001*****550510 02004

VALIDATION OR SIGNATURE OF CASHIER

FINAL DRAINAGE COMPUTATIONS FOR IMPROVEMENTS TO J & L INDUSTRIES PROPERTY

6923 EBENEZER ROAD
BALTIMORE COUNTY
MARYLAND

PREPARED BY

WHITNEY, BAILEY, COX & MAGNANI
CONSULTING ENGINEERS
GREEN SPRING STATION
SUITE 311
2360 WEST JOPPA ROAD
LUTHERVILLE, MARYLAND 21093
(301) 296-4200

DECEMBER 1983

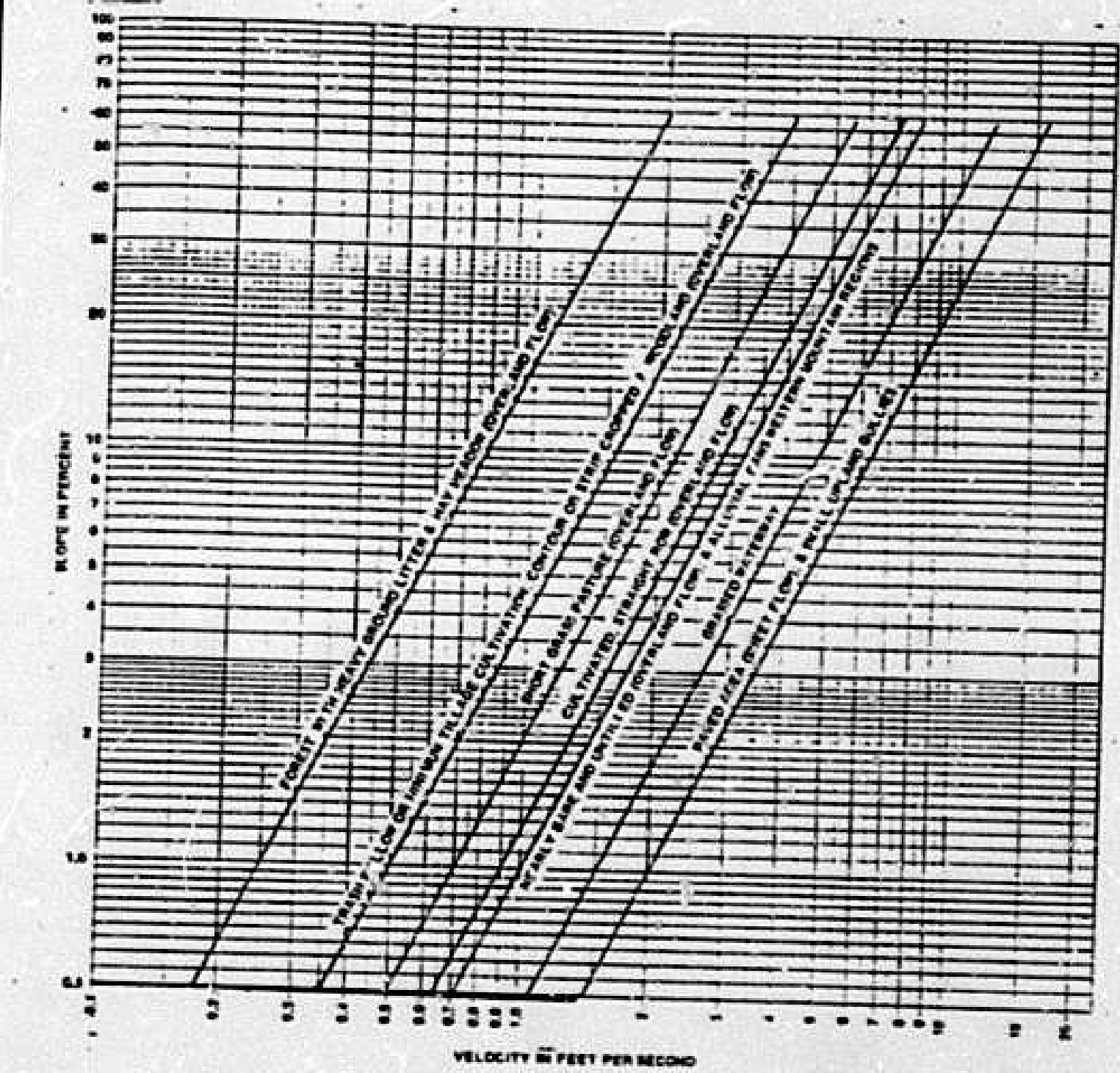
WHITNEY, BAILEY, COX & MAGNANI
Consulting Engineers
Suite 311 Green Spring Station
2360 West Joppa Road
Lutherville, Maryland 21093

PROJECT J & L INDUSTRIES
JOB No. 60-254
SHEET 5 OF 21

BY DATE
COMP. 11/6/83

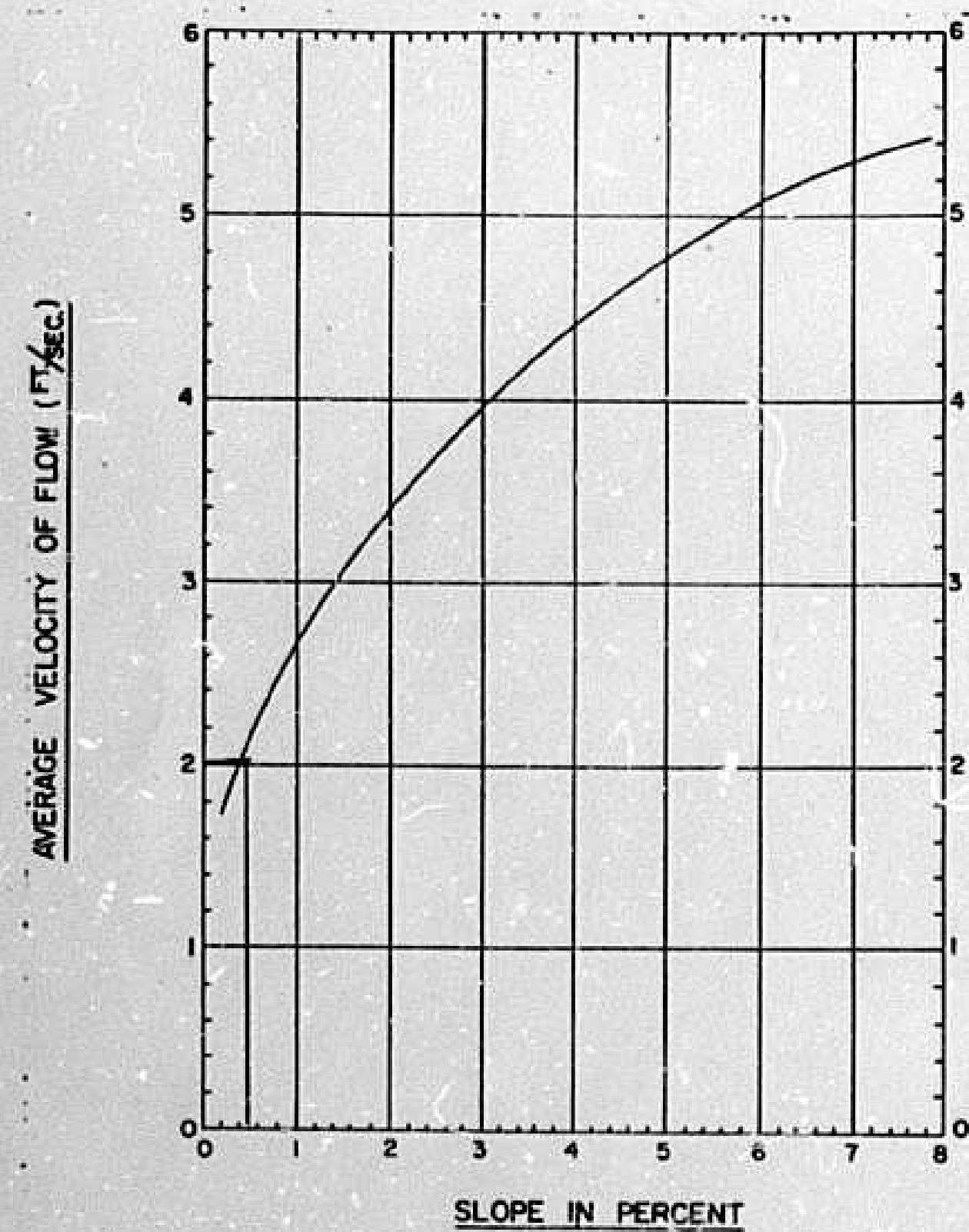
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DESCRIPTION	PAGE
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VELOCITY CHARTS	2
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PEAK FLOWS	9
PROPOSED CONDITIONS	9
PEAK FLOWS	13
STAGE/STORAGE/DISCHARGE CURVE	17
2 1/4" HYDROGRAPH	19
10" HYDROGRAPH	21
100" HYDROGRAPH	21



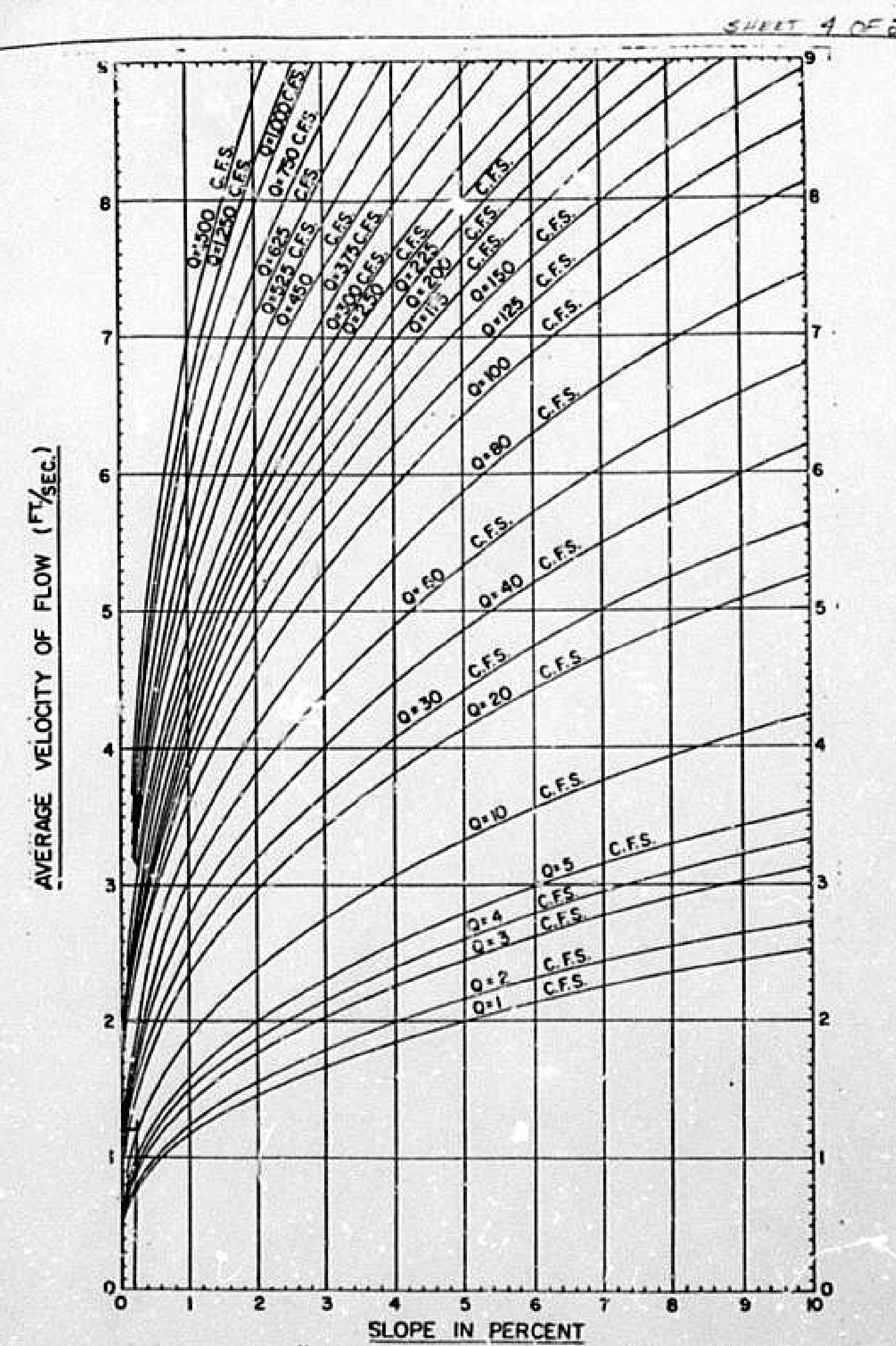
VELOCITIES FOR UPLAND METHOD OF ESTIMATING T_c

MARYLAND STATE HIGHWAY ADMINISTRATION 8/5/80
I-2-A-53 SHA-611-402.2



GUTTER FLOW VELOCITY

MARYLAND STATE HIGHWAY ADMINISTRATION 1-2-A-25 6/5/80
SHA-611-402.7



DITCH FLOW VELOCITY
(N=0.04)

MARYLAND STATE HIGHWAY ADMINISTRATION 1-2-A-21 8/5/80
SHA-611-402.6

WHITNEY, BAILEY, COX & MAGNANI
Consulting Engineers
Suite 311 Green Spring Station
2360 West Joppa Road
Lutherville, Maryland 21093

PROJECT J & L INDUSTRIES
JOB No. 60-254
SHEET 5 OF 21

BY DATE
COMP. 11/6/83

TIME OF CONCENTRATION
I OVERLAND L = 110'
V = 1.4 sps
T_c = $\frac{L}{V} = \frac{110}{1.4} = 78.6 \text{ min}$

CUTTER L = 110'
V = 2 sps
T_c = $\frac{L}{V} = \frac{110}{2} = 55 \text{ min}$

DITCH L = 380'
V = 1.2 sps
T_c = $\frac{L}{V} = \frac{380}{1.2} = 316.7 \text{ min}$
T_c = 131.4 + 90 + 5.08 = 226.5 min
T_c = 2.13 hrs

II OVERLAND L = 170'
V = 1.4 sps
T_c = $\frac{L}{V} = \frac{170}{1.4} = 121.4 \text{ min}$
DITCH L = 380'
V = 1.2 sps
T_c = $\frac{L}{V} = \frac{380}{1.2} = 316.7 \text{ min}$
T_c = 2.03 + 5.28 = 7.30 min
T_c = 0.12 hrs

SHEET 5 OF 21

MARYLAND STATE HIGHWAY ADMINISTRATION
PEAK DISCHARGES USING TR-55

CONTRACT J & L INDUSTRIES
TITLE EXISTING CONDITIONS
DATE 11-23-83

HYDROLOGIC GROUP	LAND USE	TREATMENT OR PRACTICE	HYDROLOGIC CONDITION	RUNOFF CURVE NUMBER (RCN)	AREA (AC)	AREA (SQ. MI.)
1A	ROAD			0.16	15.68	0.226
1B	PAVEMENT			0.05	4.9	0.070
2A	BLT. PAVING			0.33	33.34	0.483
2B	GRAVEL			0.30	100.80	1.440
3A	GRAVEL			0.25	56.10	0.810
TOTALS =					240	215.82

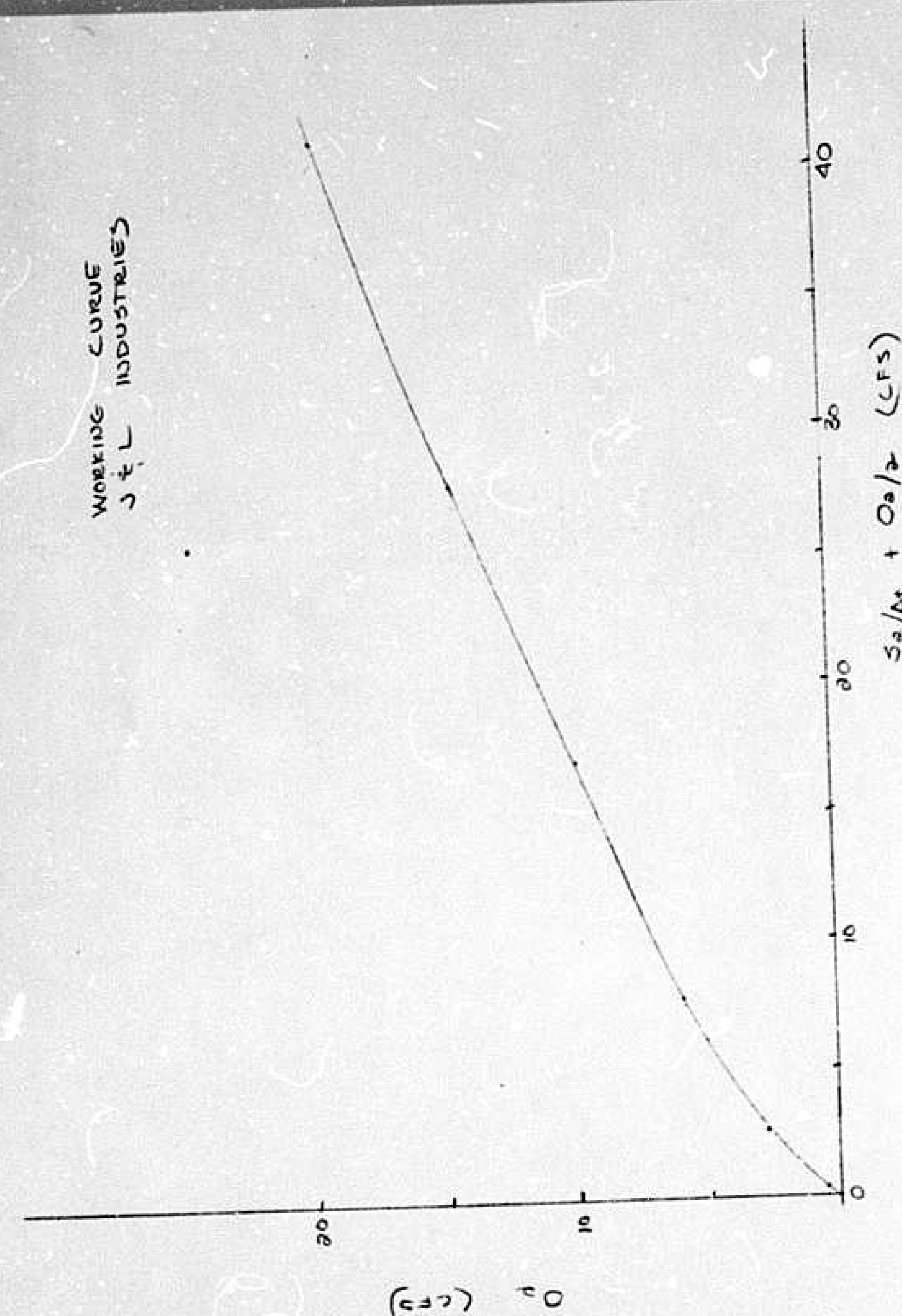
WEIGHTED RUNOFF CURVE NO. = RCN AREA = 215.82
AREA = 240

PEAK ADJUSTMENT FACTORS:
A. SLOPE = 0.13, RANGE 0.05 to 0.25, FACTOR A = 0.55
B. IMPERVIOUS AREA = 10%, FACTOR B = 0.55
C. H.L.M. = 10%, FACTOR C = 0.55

PEAK DISCHARGE q (cfs/inches of runoff) = 3.47 cfs/in (FIGURE D-2)
ADJUSTED PEAK q (cfs/inches of runoff) = 3.47 cfs/in

RAINFALL FREQ. = 2 Year
RAINFALL 1" = 3.2 inches
RAINFALL 2" = 3.97 inches
PEAK DISCHARGE q (cfs) = 7.53 cfs
PEAK DISCHARGE Q (cfs) = 13.74 cfs

1/ FROM ENGINEERING FIELD MANUAL, EXHIBIT 2-3A
2/ FROM ENGINEERING FIELD MANUAL, EXHIBIT 2-7A

WORKING CURVE
S & L INDUSTRIES

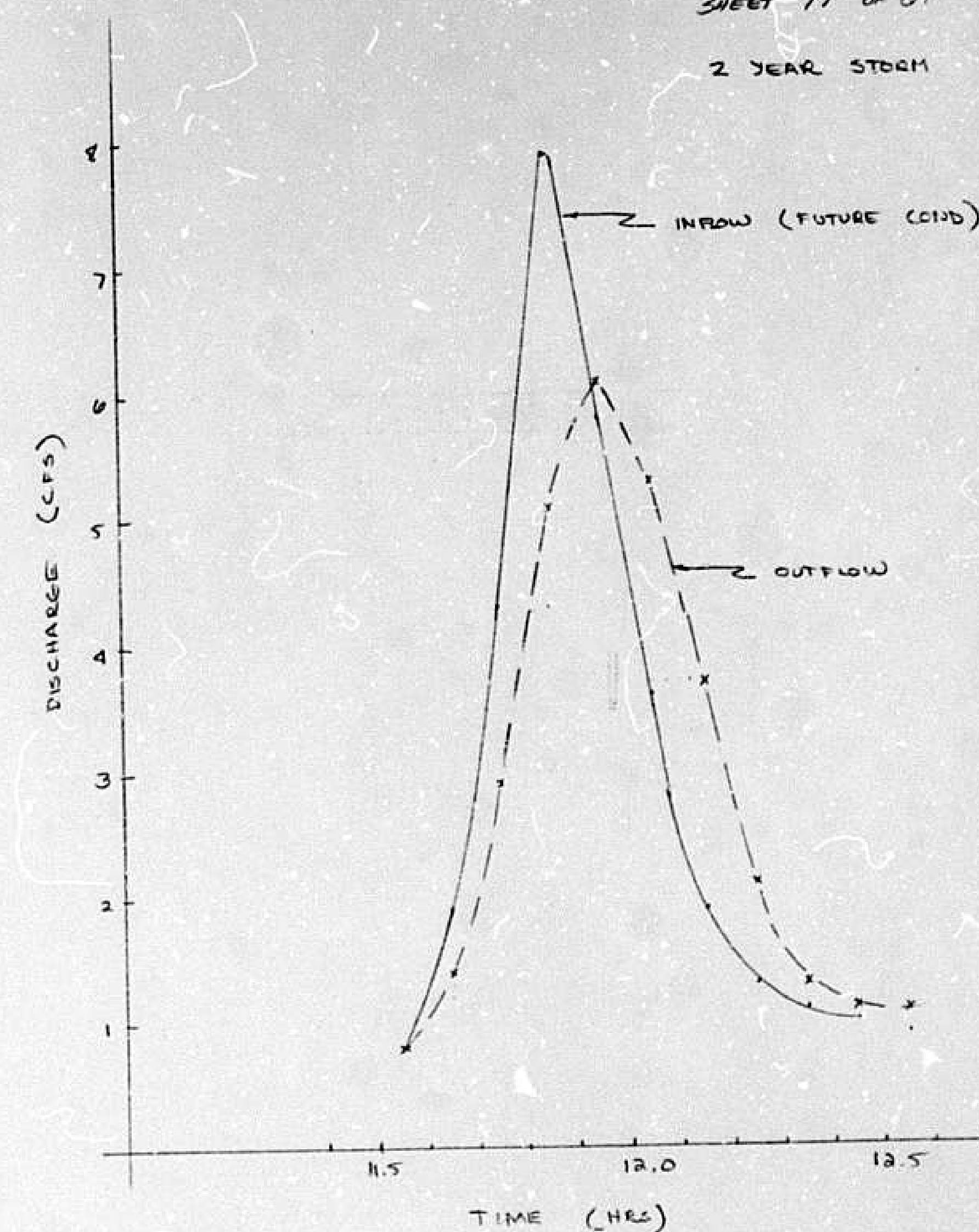
STORAGE INDICATION METHOD - 2 YEAR STORM

SHEET 16 OF 21

TIME HRS.	INFLOW I CFS	AVE. INFLOW I CFS	$S_2/\Delta t + O_2/2$ $\Delta t = 1 \text{ hr}$ CFS	OUTFLOW O ₂ CFS	REMARKS
11.55	0.8		0.8	0.8	
11.65	1.9	1.4	1.4	1.4	
11.75	4.3	3.1	3.1	2.9	
11.85	7.9	6.1	6.3	5.1	
11.95	5.8	6.9	8.1	6.1	← PEAK
12.05	3.6	4.7	6.7	5.3	
12.15	1.9	2.8	4.2	3.7	
12.25	1.3	1.6	2.1	2.1	
12.35	1.1	1.2	1.2	1.3	
12.45	1.0	1.1	1.0	1.1	
12.55	0.9	1.0	0.9	1.1	
6.1 cfs. < 7.3 cfs. OK					

SHEET 17 OF 21

2 YEAR STORM



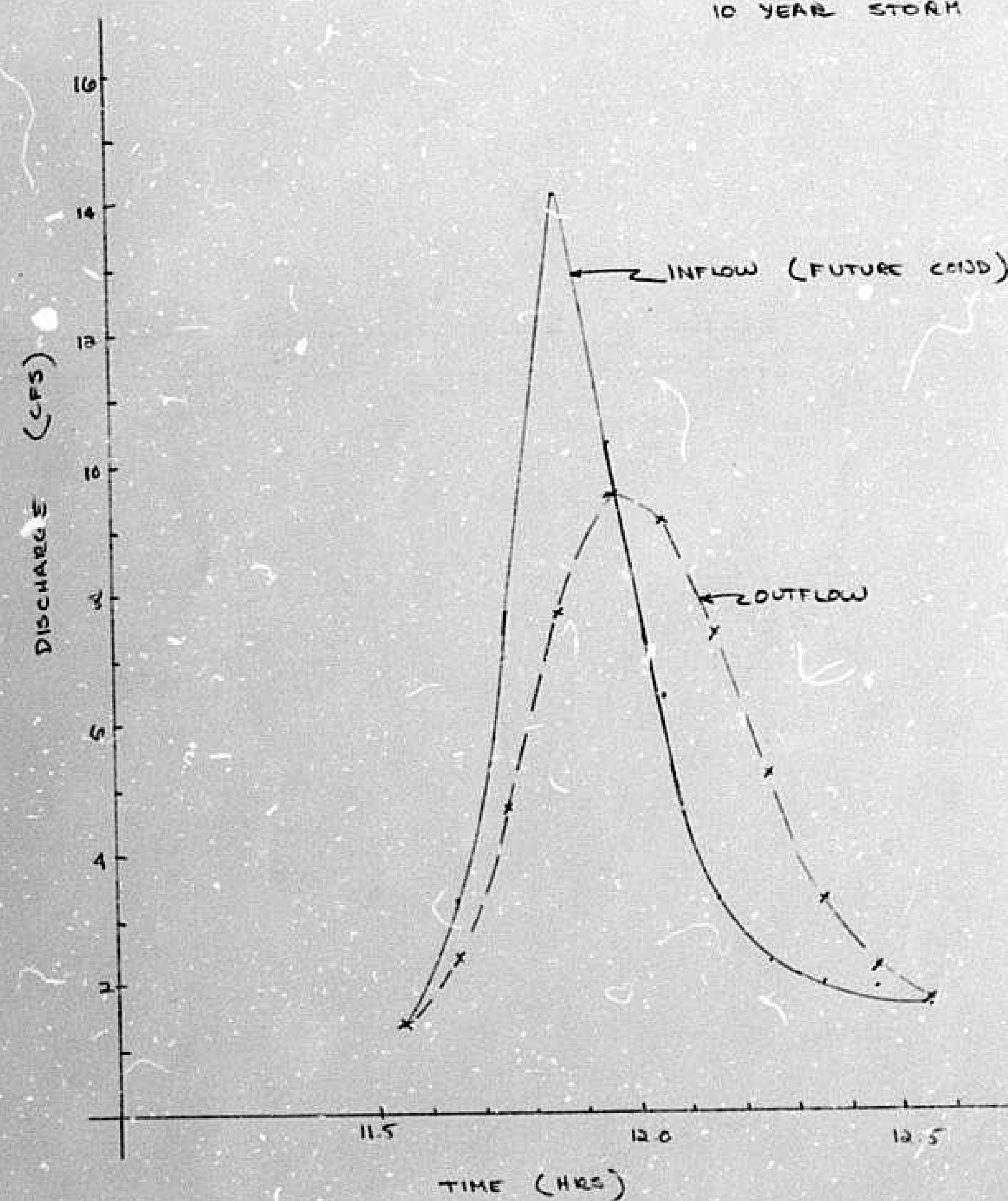
STORAGE INDICATION METHOD - 10 YEAR STORM

SHEET 18 OF 21

TIME HRS.	INFLOW I CFS	AVE. INFLOW I CFS	$S_2/\Delta t + O_2/2$ $\Delta t = 1 \text{ hr}$ CFS	OUTFLOW O ₂ CFS	REMARKS
11.55	1.4		1.4	1.4	
11.65	3.3	2.4	2.4	2.4	
11.75	7.7	5.5	5.5	4.7	
11.85	14.1	10.9	11.7	7.7	
11.95	10.3	12.2	16.2	9.5	← PEAK
12.05	6.4	8.4	15.1	9.1	
12.15	3.3	4.9	10.9	7.4	
12.25	2.3	2.8	6.3	5.2	
12.35	2.0	2.2	3.3	3.3	
12.45	1.9	2.0	2.0	2.2	
12.55	1.6	1.8	1.6	1.7	
9.5 < 14.1 cfs. OK					

SHEET 19 OF 21

10 YEAR STORM



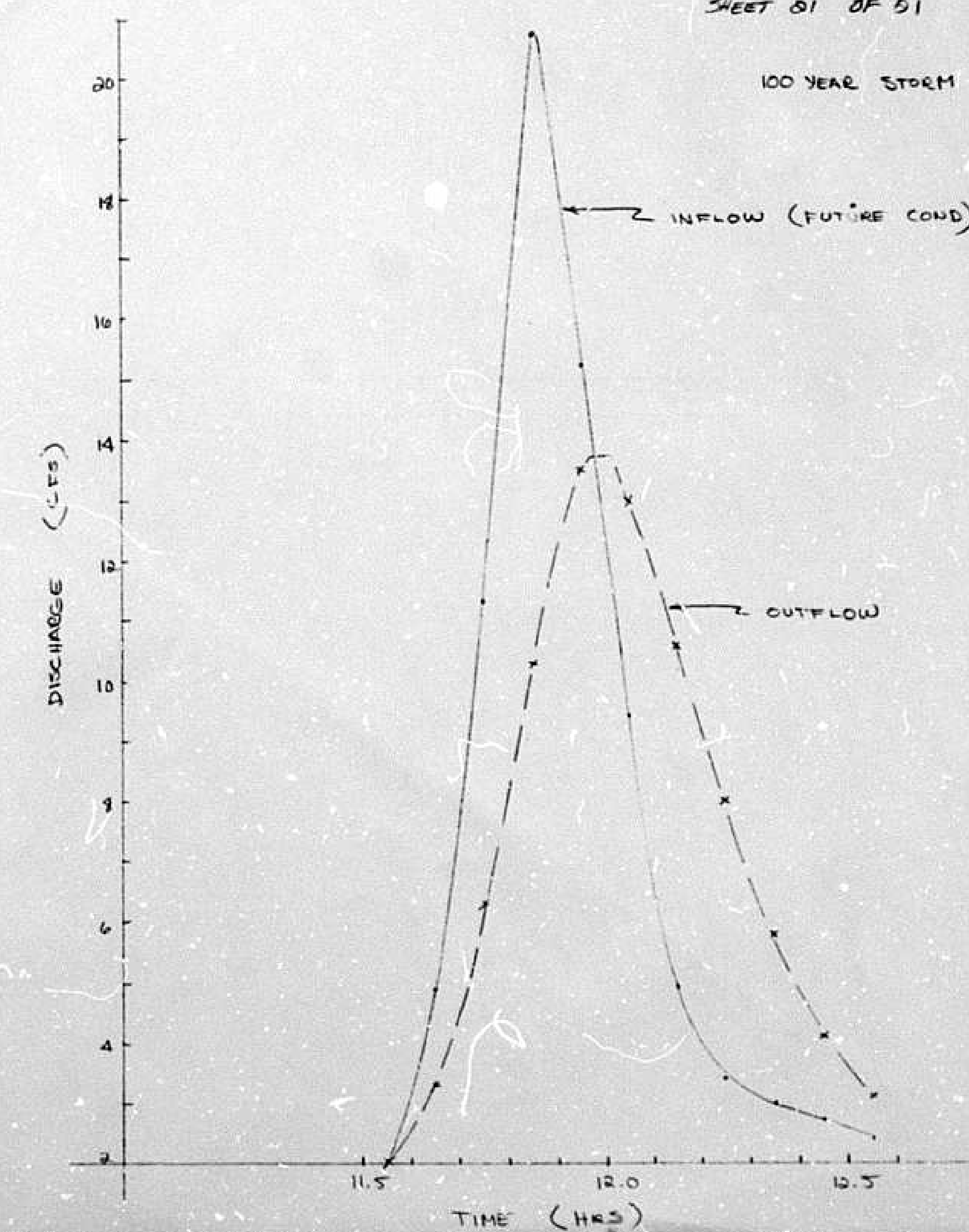
STORAGE INDICATION METHOD - 100 YEAR STORM

SHEET 20 OF 21

TIME HRS.	INFLOW I CFS	AVE. INFLOW I CFS	$S_2/\Delta t + O_2/2$ $\Delta t = 1 \text{ hr}$ CFS	OUTFLOW O ₂ CFS	REMARKS
11.55	2.0		2.0	2.0	
11.65	4.9	3.5	3.5	3.3	
11.75	11.3	8.1	8.3	6.3	
11.85	20.7	16.0	18.0	10.3	
11.95	15.2	18.0	25.7	13.5	← PEAK
12.05	9.4	12.3	24.5	13.0	
12.15	4.9	7.2	12.7	10.4	
12.25	3.4	4.2	12.3	8.0	
12.35	3.0	3.2	7.5	5.8	
12.45	2.7	2.9	4.6	4.1	
12.55	2.4	2.6	3.1	3.1	
13.5 cfs < 21.9 cfs. OK					

SHEET 21 OF 21

100 YEAR STORM



AMTRAK

