

IN THE MATTER OF : BEFORE THE HOWARD COUNTY
CHASE LIMITED PARTNERSHIP : BOARD OF APPEALS
: Case No. BA 95-58E

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CORRECTION TO DECISION AND ORDER

On April 27, 1997, the Howard County Board of Appeals issued a Decision and Order in the above-captioned case (the "Decision and Order") approving a special exception for a quarry on a parcel of land owned by the Chase Limited Partnership, Petitioner, identified as Parcel 234 and part of Parcel 235, on Block 19 of Tax Map 43, also known as 8294 and 8318 Baltimore-Washington Boulevard in Jessup, Howard County, Maryland.

In the Decision and Order, the Board made the following Finding of Fact (#16, pg. 19) with respect to the testimony of Timothy J. Schmidt, director of land resources for the Petitioner:

"All operations will be setback at least 300' from property lines, and sediment ponds will be setback between 100-300'."

The record of this case clearly indicates that Mr. Schmidt testified only as to the special exception quarrying operations, such as crushing, screening, and loading operations, and not to any other uses on the site, when he testified as to the 300 foot setback. The petition, special exception plan, and testimony clearly indicate that other uses would be setback a minimum of 100 feet from property lines. Consequently, the Board finds that the Findings of Fact indicating a 300 foot setback for "all operations" are a clerical error made in the drafting of the Decision and Order.

Based upon this erroneous Finding of Fact, the Board found in its Conclusions of Law, on page 30, Conclusion No. 4:

"... [T]he petition provides for a 2-acre truck parking area and a 1.5 acre parking area nest

to the operations center, which are of adequate size for the intended use. These parking areas will be setback at least 300 feet from Route 1 ...”

In addition, the Conclusion of Law No. 5, on page 31, erroneously states, in pertinent part:

“The special exception use will be combined only with the permitted uses of the quarry’s office building and operation center and equipment maintenance facility. These uses ... are located in the southern portion of the site near Route 1 and away from any residential properties; and will be setback at least 300 feet ...”

The Board finds that these Conclusions of Law referring to a 300 foot setback for uses other than quarrying operations are a clerical error in the drafting of the Decision and Order. The record of this case indicate no factual basis in the record for the Board to have reasonably concluded that a 300 foot setback for the two buildings and parking was proposed. Rather, the record clearly indicates that the Petitioner intended that these uses would be set back no less than 100 feet.

Rule 2.212(a)(2) of the Board’s Rules of Procedure provides that, at any time, without prior notice or hearing, the Board may revise a decision and order in order to correct a clerical error. Upon review of the record of this case, the Board has determined that the references to a 300 foot setback for the operations center, equipment maintenance facility, and parking areas instead of a 100 foot setback was a clerical error not intended by the Board. It was the intent of the Board to require a minimum 100 foot setback as shown on the Petitioner’s Operations Plan.

ORDER

WHEREFORE, it is this 11th day of July, 2000, by the Howard County Board of Appeals, **ORDERED** that Finding of Fact No. 16 and Conclusions of Law No. 4 and 5 of the Board’s Decision and Order in BA Case No. 95-58E, be, and the same are hereby


corrected to delete the references to a 300 foot setback for the operations center, equipment maintenance facility, and parking areas, and to require a minimum 100 foot setback for such uses as shown on the Petitioner's Operations Plan.

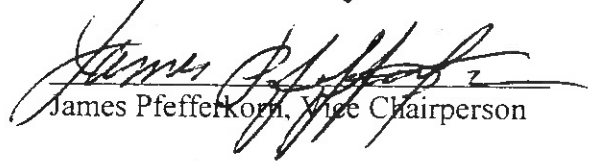
And it is further **ORDERED** that, in accordance with Rule 2.212(a)(2), a copy of this correction to Decision and Order shall be sent to each recipient of the original Decision and Order.

ATTEST:


Robin Regner, Secretary

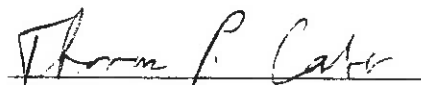
HOWARD COUNTY BOARD OF APPEALS


Robert Sharps, Chairperson

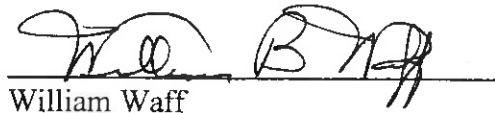

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