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Office of Zoning Administration
Neil M. Ridgely
Zoning Administrator

Notice of Decision

Case # ZA-893
Permit # 05-0431

Variance Request: For a variance from the required maximum height of 50 feet to 120 feet for a finish Mill #1 system equipment enclosure at 675 Quaker Hill Road, Union Bridge, MD in Election District 12 by Lehigh Cement Company. Lehigh was represented at the hearing by Mr. J. Brooks Leahy.

Basis for Variance: § 223-128, 223-180 and § 223-181 of the Carroll County Code of Public Local Laws and Ordinances.

Decision: Approved

Basis for Decision:
The basis for a variance under the Carroll County Code is defined under § 223-2 as follows: "a relaxation of the terms of this chapter in accordance with §§ 223-176, 223-178, and 223-186 where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the chapter would result in practical difficulty or unreasonable hardship." In addition, under §223-181.2, the Zoning Administrator "may not grant a variance or administrative adjustment if to do so would violate the purpose and intent of the regulation, or cause or be likely to cause substantial injury to the public health, safety, and general welfare."

Further guidance is provided in Maryland Case Law, most predominately cited in *Cromwell v. Ward, 102 Md. App 691,651 A.2d 424 (1995).* There is a two prong sequential process with the first step requiring a finding that the property whereupon structures are to be placed (or uses conducted) is, in and of itself unique and unusual. The second step is a determination whether an unreasonable hardship (or practical difficulty) resulting from disproportionate impact of the ordinance caused by the property's uniqueness exists. Self-inflicted or self-created hardship is never considered as grounds for a variance (*Guide to Maryland Zoning Decisions, Stanley Abrams, LexisNexis 2002*). Both tests apply to all variance cases.

Mr. Shane K, Alesi, Chemical Engineer with Lehigh, was accepted as an expert witness and provided most of the testimony on behalf of the applicant. Testimony was given that this structure will house a vertical roller mill which will grind clinker into a form acceptable for incorporation into the cement. The Roller mill is part of the Lehigh Plant expansion and modernization; however, the mill may also be considered a part of the Carroll County Circuit Court Consent Decree dated March 3, 2005. Additionally, the proposed structure will house associated cyclones, a mill fan, air heater, dust collector fan, a feed system and material transport system.
In reviewing the height issue I have considered both the Consent Decree, the location of this

building in context with operations and structures at the existing plant, and the previous decision of Zoning Administrator George Beiser on November 30, 1999 which granted a height variance for the 460 ft. tall preheater tower and 22 other new structures at the plant. The proposed location of the finish mill is logical as its function would have it adjunct to the existing semi-finish grinding building, which is 145 ft. tall. A citizen suggested that a considerable portion of the building be placed in an excavation to reduce the height but in light of the existing semi-finish mill building and the old finish mill structures I believe there would be negligible benefit. There will be public benefit in construction of the finish mill as it will eliminate or significantly reduce stockpiling of clinker on the clinker craneway. The Court Consent Order stipulates in Item # 13 that Lehigh will complete the installation of the finish mill within 14 months of the issuance of a Building Permit by Carroll County and further that the mill will commence operations within15 months of the issuance of said Building Permit. Lehigh is currently in the process of submitting Site Plans to the County for agency review. This Finish Mill will be a part of those Site Plans considered for approval by the Carroll County Planning and Zoning Commission.

The uniqueness of the property is evident – it is all about producing limestone and manufacturing Portland cement and has been for almost a century and the location of the plant / quarry is within the County designated Mineral Resource Overlay Area. Further, the applicant has stated that the Lehigh Plant has been in continuous operation since 1910, with Lehigh actually purchasing the plant in 1925 and initiating at least four modernizations, the most substantial of which began in 2000.

Practical hardship is addressed through both the unique operation associated withthe plant and the Consent Order which virtually mandates construction of the finish mill. Both steps of the measures for a variance are evident and fulfilled. Accordingly this variance is granted.

15 April 2005

Neil M. Ridgely
Zoning Administrator

Per Section 223-182 or the Carroll County Code of Public Local Laws and Ordinances, appeals of this decision must be made within 30 days of the date of the decision to the Board of Zoning Appeals pursuant to Section 223-188 of the Carroll County Code. Unless timely appealed, parties may not thereafter contest the Zoning Administrator's decision.