

Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: Carroll Manor Elementary School
Forest Conservation Variance
Tracking #03-24-4167

Dear Devin Leary:

A request for a variance from Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on July 23, 2024. A revised variance application was received on August 9, 2024. The request proposes the removal of six (6) specimen trees from an existing elementary school property in order to allow for the construction of two new parking areas. The six specimen trees are all white pines in good condition with 34-inch, 33-inch, 33.5-inch, 31-inch, 32-inch, and 39-inch diameters-at-breast-height (dbh). Six additional specimen trees in the vicinity of the project limit-of-disturbance (LOD) will not be impacted by the development. The variance also proposes to base afforestation requirements on the project's 1.8-acre limit of disturbance (LOD) instead of the entire 10-acre property.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner to show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to add additional parking areas to an existing elementary school property. Since the school already exists and has been in use for many years, the applicant is already realizing beneficial use of the property without the requested variance. As such, full application of the law would not deprive

the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires the petitioner to show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to the distribution of specimen trees on the school property in relation to the areas most appropriate for installation of new parking, as well as the small size of the LOD in comparison with the entire property. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires the petitioner to show that the special variance, as requested, will not alter the essential character of the neighborhood. The surrounding neighborhood consists of low-density residential lots and agricultural fields and facilities. Given that the property's use as an elementary school will not change, we find that granting this variance will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Granting the variance will not impact any streams, wetlands, floodplains or associated buffers, as none exist on the property. Therefore, this Department finds that the proposed variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires the Director of EPS to find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although six specimen trees would be impacted for this project, six other specimen trees in the vicinity of the LOD will be retained, and additional specimen trees also exist elsewhere on the property. Additionally, afforestation will be provided based on the proposed disturbance. In light of these findings, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that the requested variance meets all required criteria. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Mitigation is required for the removal of all six specimen trees, given that they are all native species in good condition and located outside forested areas. The mitigation requirement is as follows:

34-inch dbh white pine: \$1,122.98
33-inch dbh white pine: \$1,057.90
33.5-inch dbh white pine: \$1,090.20
31-inch dbh white pine: \$933.55
32-inch dbh white pine: \$994.75
39-inch dbh white pine: \$1,477.56

Total mitigation fee: \$6,676.94

2. The total LOD shall be limited to the 1.8 acres shown on the plan accompanying the variance application for the proposed parking lot construction.
3. The following note must be on all subsequent plans for this development project:

“A variance (tracking #03-24-4167) was granted by Baltimore County Department of Environmental Protection and Sustainability to allow impact to six (6) specimen trees, as well as to allow afforestation to be based on the project’s limit of disturbance rather than the entire property. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”

4. The forest conservation plan included with the variance application must be revised to reflect this variance decision.
5. This variance approval does not exempt future development activities at this site, including further specimen tree removal, from compliance with Baltimore County’s Forest Conservation Law.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

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This variance is approved by the Director of the Department of Environmental Protection and Sustainability on _____. Any changes to site layout may require submittal of revised plans and a new variance request.

Sincerely yours,

Horacio Tablada
Director

HT/lbe

- c. Leslie Lazzeri, Baltimore County Public Schools
Seth Darlington, Wallace Montgomery
Daniel Coy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

BCPS Representative's Signature

Date

Printed Name