

January 3, 2025

Devin Leary
Human and Rohde
512 Virginia Avenue
Towson, MD 21286

RE: Property of J. Fountaine Jones
1825 Blue Mount Road
Forest Conservation Variance
(Tracking # 03-24-4219)

Dear Devin Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on November 12, 2024. If granted, the variance would allow the postponement of forest conservation compliance for five lots created without County authorization on the remainder parcel shown on the approved J. Fountaine Jones and Wife Property Joint Subdivision Planning Committee (JSPC) subdivision plan. Postponing forest conservation compliance will allow the JSPC plan to be amended to include the five illegally created lots and allow the property owner of Lot 1 to proceed with a proposed minor subdivision. Forest conservation compliance will be applied to each of the five lots associated with the remainder parcel prior to any future development activities on these lots.

The J. Fountaine Jones and Wife Property JSPC subdivision was approved in July of 1977 and recorded in the Land Records of Baltimore County on August 10, 1977. The subdivision created a lot (Lot 1) and a remainder parcel. The remainder parcel was subdivided into five additional lots by deed and description without County approval. The property owners of Lot 1 would like to create a two lot minor subdivision on their property. Permits, Approvals, and Inspections (PAI) is requiring the original JSPC plan to be amended to include the five lots created illegally on the remainder parcel before allowing the property owners of Lot 1 to proceed with their proposed minor subdivision. Amending the JSPC plan will require compliance with the County's Forest Conservation Regulations. Granting the variance to postpone forest conservation compliance on the five lots illegally created on the remainder parcel would allow the property owners of Lot 1 to proceed with their proposed minor subdivision.

The Director of the Department of Environmental Protection and Sustainability (DEPS) 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 postpone compliance with the County's Forest Conservation Regulations on the five lots created without County approval on the remainder parcel of J. Fountaine Jones and Wife Property in order to proceed with a two lot minor subdivision on their property, shown as Lot 1 on the same development. Given that the property owners of Lot 1 have an existing house on the property, 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 by the variance request.

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 unique circumstance associated with the illegal creation of the five lots on the remainder of parcel of the JSPC plan and PAI's requirement that the JSPC plan be amended to include the five new lots on the remainder parcel. Consequently, we find that the second criterion has been met by the variance request.

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. Nothing will change with regard to the general use of this property. The proposed variance will postpone forest conservation for the five illegally created lots and allow the owners of Lot 1 to proceed with a two lot minor subdivision. The character of the surrounding neighborhood will not change. Consequently, granting the variance will not alter the essential character of the neighborhood. Therefore, we find 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 to postpone full compliance with the Forest Conservation Regulations on the five lots created without County approval to facilitate a proposed minor subdivision on Lot 1 will not impact any streams, wetlands, or floodplains. A separate variance to postpone forest buffer compliance was also received. The County's Forest Buffer Regulations will be applied to the five lots prior to any future development on these lots. Therefore, this Department finds that the requested 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. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires the Director of DEPS 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. Granting the variance to postpone forest conservation compliance for the five lots created illegally on the remainder parcel would be consistent with the spirit and intent of the law given that no forest, specimen trees, or buffers would be impacted by the proposed variance and forest conservation compliance would be required on all of the five lots prior to any future development activity on each lot unless the proposed development activity meets the forest conservation exemption criteria. Furthermore, full compliance with the County's Forest Conservation Regulations would be required for the proposed minor subdivision on Lot 1. Consequently, 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. Compliance with the County's Forest Conservation Regulations will be required for any of the five lots created without County approval on the remainder parcel shown on the J. Fountaine Jones and Wife Property approved July 1977 unless the the proposed development activity on a particular lot meets the forest conservation exemption criteria. Each of the five lots will comply separately with the Regulations at the time a development activity is proposed on that particular lot. The approval of this variance neither provides or denies the owners of the five lots on the remainder parcel with any rights or obligations those owners would otherwise be entitled to but for this variance.
2. The following notes must be included on all subsequent plans and plats for any development on this property:

“A variance (Tracking Number 03-24-4219) was granted by Baltimore County Department of Environmental Protection and Sustainability to postpone full compliance with the County's Forest Conservation Regulations on any of the lots within the remainder parcel of the J. Fountaine Jones and Wife Property as depicted on the July 27, 1977 JSPC plan. Each of the lots will comply separately with the Regulations at the time a development activity is proposed on that particular lot unless the particular lot meets the forest conservation exemption criteria.”

“Any lots within the remainder of the J. Fountaine Jones and Wife Property, as depicted on the July 27, 1977 JSPC Plan recorded in Baltimore County Land Records on August 10, 1977 (E.H.K., JR 41/Folio 116), shall comply with all applicable Baltimore County Laws and Regulations including, but not limited to, the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains and the Forest Conservation Regulations, prior to any future development activities on any lot within the originally compromised “Remainder” on the July 27, 1977 JSPC Plan.”

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.

Please have the owner 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 Gris Batchelder at (410) 887-3980.

Sincerely yours,

Horacio Tablada
Director

HT/cgb

- c. Robert T. North and Krista M. North, 1825 Blue Mount Road
Tom Hoff, Thomas J. Hoff, Inc.

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

Owner's Signature

Date

Printed Name

Property of Fountaine Jones FCV 12.17.24/FCV/Gris