

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

November 7, 2024

Re: Kaur Property
Forest Conservation Specimen Tree Variance
Tracking # 02-24-4183

Dear Devin Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (DEPS) on September 11, 2024. This request proposes to remove four specimen trees to facilitate grading associated with a three-lot minor subdivision and the construction of two new residential dwellings and a new stormwater management pond. These specimen trees are all in a landscape setting scattered throughout the property: three Silver Maples, which are 35, 42, and 30 inches in diameter at breast height (DBH) and are in fair condition and a 35 inch DBH white mulberry in poor condition. There is no forest on site.

The Director of DEPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County 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 of the three criteria under Subsection 33-6-116 (d) must be met, and all three 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 show 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 beneficial use of the property. The applicant is seeking to subdivide the property and construct two new additional residences and a stormwater pond. However, requiring protection of the four specimen trees would not deprive the petitioner of all beneficial use of the property, since a single-family home already exists on site. Therefore, this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight in making the proposed improvements is due to unique circumstances associated with the location of the specimen trees relative to the limit of disturbance necessary to construct the new homes and stormwater pond, rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The four specimen trees found on the property would be disturbed for the construction of two residences and a stormwater pond. Furthermore, no change in land use would result, as an existing home has existed for years on the subject property and the surrounding areas are residential neighborhoods. 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. We have determined that no streams, wetlands, floodplains, or forest would be impacted to construct the additional two homes. Moreover, the new homes will comply with current stormwater management requirements and a stormwater pond is being located on site. Therefore, we find that granting of the special 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 on the property necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of DEPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of three specimen trees in fair condition and one in poor condition, to construct two residences would be consistent with the spirit and intent of this law given that no impacts to forest or water quality would result and that the removal of the three specimen trees in fair condition will be mitigated by payment of a fee in lieu. That fee money will be used by EPS to afforest priority planting areas in Baltimore County. Therefore, this criterion has been met.

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

1. The three specimen trees shall be mitigated by payment of a \$3,777.92 fee in lieu, which is based on 25% of the critical root zone of each tree. The fourth tree, ST4, is in poor condition so no mitigation is required for its removal. This fee-in-lieu of mitigation and any fee-in-lieu of afforestation shall be remitted to DEPS prior to approval of any permit for this project. Checks should be made payable to Baltimore County.

2. The following note must appear on all subsequent plans for this project:

“A variance (tracking #02-24-4183) was granted to Baltimore County’s Forest Conservation Law to allow removal of four specimen trees. Conditions were placed on this variance to ensure the spirit and intent of this law were met including payment of a fee in lieu of mitigation.”

3. The final forest conservation plan (FCP) shall be revised to reflect this variance as well as the proposed minor subdivision and approved by DEPS staff prior to issuance of any permits.

Please 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 the renovation permit for this property.

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.

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

Sincerely yours,

Horacio Tablada
Director

HT/jda

c. Don Mitten, Richardson Engineering

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I/we agree to the above conditions to bring the referenced site into compliance with Baltimore County's Forest Conservation Regulations.

Owner's Signature

Date

Printed Name