

February 10, 2025

Robert Brittain
Frederick Ward Associates
5 South Main St.
Bel Air, MD 21014

Re: Parkville High School at 2600 Putty Hill Avenue
Forest Conservation Variance
Tracking # 06-25-4251

Dear Robert Brittain:

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 January 3, 2025. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.2-acre limit of disturbance (LOD) rather than the entire 12.5-acre high school property in order to allow installation of pre-engineered bleachers, an elevated press box, and modify an existing ADA-accessible sidewalk within an existing stadium area. The entirety of the disturbance area will be confined to an existing disturbed area adjacent to the athletic field. No forest or specimen trees exist within the disturbance area. Using the combined LOD of the project as the net tract area on the forest conservation worksheet would result in no afforestation requirement, as opposed to the 1.5 acres of afforestation required under full compliance.

The Director of 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 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 all beneficial use of the property. The property is already functioning as a public high school, so the applicant has beneficial use of the property. Denying the requested variance would not prohibit the proposed project, but would increase the cost to meet the requirements for completing the project. Consequently, full application of the law to the entire property would not deprive the applicant of all beneficial use of the property, and we find that 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 is due to the cost of full compliance with the Forest Conservation Law rather than general conditions of the neighborhood, which have no bearing on this variance request. Consequently, we find that 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 surrounding neighborhood consists of medium- and high-density residential areas. Given that the proposed items will be installed in an existing disturbed area adjacent to the existing athletic field and are consistent with the property's long-standing use as a public high school, granting this special variance request will not alter the essential character of this neighborhood. Therefore, 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 result in impacts to streams, wetlands, floodplains, associated buffers, or forest, as none exist within the project area. Furthermore, design and construction will meet current erosion and sediment control regulations. As such, this Department finds that the requested variance will not adversely affect water quality. Consequently, 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 necessitating 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 that the Director of DEPS 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. Using the project's LOD as the net tract area would be consistent with the spirit and intent of the Forest Conservation Law given the small area of disturbance and the fact that no forest or specimen trees will be impacted by the proposed project. Therefore, this criterion has been met.

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

1. The total LOD shall be limited to the 0.2 acres shown on the plan accompanying the variance application for the proposed bleachers, press box, and sidewalk modification. The calculated afforestation requirement for the proposed improvements is negligible, so there is no afforestation requirement for this project.

2. The following note must be on any subsequent plan for this project:

“A variance was granted by Baltimore County Department of Environmental Protection and Sustainability (tracking # 06-25-4251) to allow afforestation requirements to be based on the project’s limit of disturbance rather than the entire property in order to allow the installation of bleachers, a press box, and sidewalk modifications on the existing high school property. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met.”

3. Granting this variance does not exempt future development activities on this property from full compliance with the 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 Marie Brady at (410) 887-3980.

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/mvb

- c. Anne Hairston-Strang, Maryland Dept. of Natural Resources

