

January 15, 2025

Henry Leskinen  
Eco-Science Professionals  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Shaneybrook Property (Reisterstown Crossing, Lot 4) at 144-150 Westminster Pike  
Forest Conservation Variance  
Tracking # 04-24-4234

Dear Henry Leskinen:

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 December 4, 2024. The request seeks a variance to remove five (5) specimen trees due to their condition and location within the proposed development project. Tree 1 is a 39-inch Norway maple in poor condition. Tree 2 is a 57-inch silver maple in good condition. Tree 3 is a 46-inch silver maple in poor condition. Tree 4 is a 48-inch red maple in fair condition. Tree 5 is a 34-inch black locust in poor condition. Trees 1 through 4 are not within forest; tree 5 is within on-site forest. Trees are shown on Forest Conservation Plan (#FC 24-043) dated December 2, 2024.

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. Denying the variance would not deprive the petitioner of all beneficial use of the property, as there are multiple existing buildings and parking onsite. Therefore, 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 largely to the location of four of the five trees' critical root zones close to Westminster Pike and the proposed development envelope. In order to retain these five trees, the proposed development

would need to be greatly reduced and restricted to the northern portion of the site. This would reduce building visibility and still likely impact Tree 5. Furthermore, three trees are in poor condition, one of which is also an invasive species. Therefore, we find that the petitioner's plight is due to these unique circumstances rather than conditions in the neighborhood; thus, 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. Granting the variance will allow construction of a retail building and associated infrastructure. This is consistent with the surrounding mix of office, retail, and business development and will not alter the essential character of the surrounding 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. The proposed development will be required to meet stormwater and sediment control requirements. As a result, this Department finds that the proposed 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. The proposed development will impact 0.4 acres of onsite forest. This forest is highly disturbed with no environmentally sensitive areas. It contains many invasive/exotic species, with trash and debris throughout. The majority of the specimen trees are not in good condition. The proposed development does not affect priority forest and mitigates for forest loss by paying into the fee-in-lieu program. Therefore, 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 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. Trees 2 and 4 shall be mitigated by payment of a \$5,397.15 fee-in-lieu, which is based on 25% of the critical root zone of each tree. Trees 1, 3, and 5 are in poor condition, so no mitigation is required for removal. This specimen tree fee-in-lieu and fulfillment of the reforestation requirement is necessary prior to DEPS approval of any permit for this project. The reforestation requirement shall be met by either purchasing credit in a DEPS-approved forest planting bank or paying a

fee-in-lieu for planting if there are no planting banks available. Checks should be made payable to Baltimore County.

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

“A variance was granted by Baltimore County Dept. of Environmental Protection and Sustainability (tracking # 04-24-4234) to allow removal of five specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including payment of a fee in lieu of mitigation.”

3. The final forest conservation plan shall be revised to reflect this variance and approved by DEPS staff prior to issuance of any permits.

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. St. John Properties, Emily Haney  
Doris M Shaneybook Trustee; Joan Vandervort, Trustee  
Nick Brader  
Anne Hairston-Strang, Maryland Dept. of Natural Resources

