

November 26, 2024

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

Re: Stemmers Run Middle School Parking Lot Improvements
201 Stemmers Run Rd., Essex MD 21221
Forest Conservation Variance
Tracking # 07-24-4166

Dear Devin Leary:

A request for a variance from Baltimore County Code Article 33, Title 6, Forest Conservation was received by the Department of Environmental Protection and Sustainability (DEPS) on July 23, 2024. Plan revisions were required and resulted in a revised submittal on October 17, 2024. This request proposes to base the afforestation required by the forest conservation law on the 2.1-acre limit of disturbance rather than the entire 18.1-acre school campus, and to remove 2 of the 12 specimen trees outside of forest on-site for parking lot improvements and associated stormwater management. Two *Quercus alba* (34-inch and 37.5-inch diameter at breast height) are proposed for removal. Full compliance would result in an afforestation requirement of 2.1 acres. Based on the limits of disturbance for the current activity, the afforestation requirement would be 0.4 acres. These redevelopment activities include areas of existing impervious surfaces and areas in lawn with scattered trees. There are no proposed impacts to streams, wetlands, forest buffers, or forest.

The Director of 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 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 his property. The applicant is seeking to improve the parking and traffic flow at an existing public school. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, 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 proposed improvements are required due to unique circumstances

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associated with the Stemmers Run Middle School property and the need to improve parking and traffic flow, and to provide stormwater management for the improvements. Therefore, 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 project involves parking lot improvements on an existing public school campus so the use and essential character of the neighborhood will remain the same. 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. There are no stream, wetland, or forest buffer impacts associated with this project. Also, there are no impacts to forests. In addition, the project must meet stormwater management requirements. Therefore, granting of the special variance will not adversely affect water quality, and 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. Prior to requesting this variance, no action has taken place on the property that would have required this variance request. Therefore, the fifth criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Title 6, Forest Conservation. Allowing the removal of 2 specimen trees, and allowing the afforestation obligation to be based on the limit of disturbance for improvements to an existing school campus would be consistent with the spirit and intent of the forest conservation law. The parking lot improvements and associated stormwater management requirements have been located to minimize impacts as 10 of the 12 specimen trees on the property outside of forest are to be retained. Also, there are no proposed impacts to forest and water quality impacts have been minimized in the design of the improvements. Therefore, this criterion has been met.

Based on our review, this Department finds that 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 0.4-acre afforestation requirement and the specimen tree mitigation for this project shall be met by purchasing credit at a DEPS-approved forest planting bank, or by paying a \$12,072.26 fee-in-lieu (\$9,583.20 for afforestation, \$2,489.06 for specimen tree removal) to the Baltimore County Forest Conservation Fund should an approved bank be unavailable. Prior to issuance of any permits, the fee shall be paid to DEPS, or the signed bank letter shall be returned to DEPS indicating that retention bank credit has been purchased.

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

“A variance (tracking #07-24-4166) was granted by Baltimore County Department of Environmental Protection and Sustainability to allow removal of two 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.”

3. A forest conservation plan must be submitted and approved by DEPS prior to issuance of any permits.
4. This variance approval does not exempt future redevelopment of this site from complying with the Baltimore County forest conservation law. Also, if any specimen tree shown on the plan “to remain” is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

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 Paul Dennis 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

c: Dan Coy, State of Maryland Department of Natural Resources
Leslie Lazzeri, Baltimore County Public Schools

HT/pad

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I/we agree to the above conditions to bring the referenced Baltimore County Public Schools project into compliance with Baltimore County Code Article 33, Environmental Protection And Sustainability, Title 6, Forest Conservation.

Baltimore County Public Schools Representative Signature

Date

Printed Name