

February 12, 2025

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

Re: White Property – 6001 Foxhall Farm Road
Forest Conservation Specimen Tree Variance
Tracking # 01-25-4258

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 January 16, 2025. This request proposes to remove three out of 24 specimen trees to facilitate grading associated with a three-lot minor subdivision and the construction of two new residential dwellings and installation of associated utilities. Two specimen trees (ST) are isolated black cherry trees; ST-H is 43-inch in diameter at breast height (DBH) and ST-I is 36-inch DBH, both in fair condition. ST- U is a 32-inch DBH tulip poplar in good condition, located within a forested area.

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. However, requiring protection of the three specimen trees would not deprive the petitioner of all beneficial use of the property, since the lot is already developed with a single-family home already 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 while limiting impacts to the forest buffer, 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 three specimen trees found on the property would be disturbed for the construction of two residences and installation of a sewer line to the existing residence and the two new residences. 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, or floodplains, would be impacted by the construction of the new residential homes. However, the proposed driveway and sewer line will impact the forest buffer and will be addressed in an Alternatives Analysis. Forest buffer impacts are minimal and the majority of the forest buffer and wooded portions of the site will remain undisturbed. Additionally, forest buffer impacts will be mitigated with on-site planting which will increase forested forest buffer and reduce run-off into the streams and wetlands 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 to good condition to construct two residences and install a sewer line would be consistent with the spirit and intent of this law given that limited impacts to forest or water quality would result and that the removal of the three specimen trees in good condition will be mitigated by payment of a fee-in-lieu for the two isolated trees. 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. Specimen tree U is located in a forested area and mitigation will be met through forest conservation. Specimen trees H&I shall be mitigated by payment of a \$3,056.90 fee in lieu, which is based on 25% of the critical root zone of each tree. 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 #01-25-4258) was granted to Baltimore County’s Forest Conservation Law to allow removal of three 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/Forest Buffer Protection Plan 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. Ken Wells, kj Wells Inc
Daniel Coy, Maryland Department of Natural Resources

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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