

February 17, 2016

Melvin T. Laney  
5706 Mount Gilead Road  
Reisterstown, Maryland 21136

Re: 5706 Mount Gilead Road  
Forest Conservation Variance  
Tracking # 03-15-2118

Dear Mr. Laney:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on December 2, 2015. This request proposes to impact approximately 3,500 square feet of Forest Conservation Easement in order to continue to use a covered patio and lawn area that were established in this easement without authorization from EPS.

The Director of EPS 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 that the petitioner show that 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 his property. The owner has a very limited area in which to locate the structure and yard, due to the location of the dwelling, septic reserve area and driveway on the property. Therefore, since some beneficial use is restricted, we find the criterion has 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 in the neighborhood. Most lots in the neighborhood have similar Forest Conservation Easement configurations. Therefore, since the petitioners plight is not due to unique circumstances we find the criterion has not 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. Since the lot has a narrow backyard and no additional trees are being removed, the special variance request will not alter the essential character of the neighborhood. Therefore, the essential character of the neighborhood is not impacted, and we find the 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. No trees are proposed to be removed from the Forest Conservation Easement, and the portion of the property where the structure and lawn are proposed are at least 100 feet from the nearest stream. Therefore, there is no adverse effect on water quality and we find the 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 which is the result of actions taken by the petitioner. We determined that prior to the owner's purchase of the property the house was built at the edge of the building envelope and immediately adjacent to the Forest Conservation Easement. Thus, the easement setback provided almost no useable backyard space. Therefore, we find that this 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 Article 33 of the Baltimore County Code. All existing trees, and shrubs will be undisturbed. Your request is to have a useable yard which is consistent with the spirit and intent and therefore we find the criterion has been met.

Based upon our review, this Department finds that the 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, with the following conditions:

1. This variance is limited in scope to continued use of the existing covered patio and lawn. All other restrictions outlined in the Forest Conservation Easement Declaration of Protective Covenants, Conditions, and Restrictions are applicable to this property.
2. A fee-in-lieu of mitigation in the amount of \$3,500.00 shall be paid to Baltimore County to offset impacts associate with this variance request. The fee payment must be made provided to EPS by April 1, 2016.

3. The following note must appear on all future plans and plats submitted for this property: "A variance from Baltimore County Forest Conservation Law was granted by the Baltimore County Department of Environmental Protection and Sustainability on February 17, 2016. This variance approved the continued existing use of 3,500 square feet of Forest Conservation Easement (FCE). Conditions were placed on this approval including the payment of a \$3,500 fee-in-lieu to Baltimore County as mitigation for impact of the 3,500 square feet of FCE."

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 sign the statement and return a signed copy of this letter to this Department within 21 calendar days. 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 contact Mr. Brian Lindley at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

c: Marian Honeczy, Maryland Department of Natural Resources

VJG: bal

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

---

Property Owner

Date

---

Printed Name