

February 4, 2016

Salvatore Caltabiano  
Vincenza Caltabiano  
2203 Crestnoll Rd  
Reisterstown, MD 21136

Re: Caltabiano Property  
2203 Crestnoll Road  
Forest Conservation Variance  
Tracking # 02-16-2141

Dear Mr. and Mrs. Caltabiano:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Management, Title 6 Forest Conservation was received and processed by this Department. This request proposes to allow you to maintain an existing garage, driveway and yard in the Forest Conservation Easement (FCE) located on your property.

The Director of the Department of Environmental Protection and Sustainability (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 that 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 the beneficial use of his or her property. We determined that you purchased the property in 1994. The FCE on the property was established in 1993 as part of the Akeley Property Phase II subdivision, therefore, the inability to mow the easement has not deprived you of the beneficial uses of your property and 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. Several other properties within the Akeley Property Phase II subdivision have property that is constrained by Forest Buffer/Forest Conservation Easements, similar to the constraints on your property. For these reasons,

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you have failed to show that your plight is due to unique circumstances. As a result, this 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. Maintaining a small yard within the FCE and a driveway and garage that fall within the edge of the FCE boundary on the property will diminish the size of the forest stand within the FCE. However, a large portion of the subdivision is wooded and the portion of the FCE in question can only be seen by you and is separated from the rest of the properties by mature woodlands. As a result, we determined that mowing a small portion of the conservation easements will not alter the essential character of the neighborhood and 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. A variance approval would only affect a small portion of the easement and would leave a minimum of 200 feet of mature woodlands between the maintained yard and the nearest stream, maintaining a more than adequate buffer to protect water quality in the area. 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. Although you purchased the property in 1994 after the creation of the FCE, the trees surrounding the home have since grown to heights that make them very hazardous to your home. Allowing the maintenance of a small yard surrounding the home will mitigate the potential for a dangerous event occurring that could damage the home or possibly injure you. For this reason, we determined that the variance request does not arise from a condition or circumstance which is the result of actions taken by you, and 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. We determined that maintaining a small yard, a small portion of a garage, and a portion of your existing driveway within the easement area would not affect the overall functionality of the FCE or water quality and would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this 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:

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1. You must plant 33 native deciduous trees that are 2 inch caliper and at least 5 feet tall, as mitigation for the special variance on the 14,090 square feet of FCE.
2. The following note must appear on all future plans for the property: “A variance from the Baltimore County Forest Conservation Law was granted by the Baltimore County Department of Environmental Protection and Sustainability on February 4, 2016. The variance approved continued existing use of a garage, driveway, and yard within the Forest Conservation Easement.”

Please note, your property remains in violation of Sections 33-3-112 and 33-6-103 of the Baltimore County Code. The compliance requirements stipulated in our December 2, 2015 violation letter still apply. The Department will grant you an extension until May 15, 2016 to complete the compliance requirements. Failure to abide by these regulations by May 15, 2016 will result in an enforcement action by this Department.

If you have any questions regarding this correspondence, please call Mr. Jeremiah Spiga at (410) 887-3980.

Sincerely yours,

Vince J. Gardina  
Director

VJG/cgb