

October 23, 2014

Mr. Devin Leary  
Human & Rohde, Inc.  
516 Virginia Avenue  
Towson, MD 21286

RE: Greencroft Lot 28  
Forest Conservation Variance Request  
(Tracking # 03-14-1883)

Dear Mr. Leary:

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 (EPS) on October 17, 2014. This request proposes to remove one specimen tree in order to develop a recorded residential lot with a single residence. The tree to be removed is a 30 inch storm damaged tulip poplar in existing forest, and there are two other specimen trees near the proposed limit of disturbance that will be protected. A similar variance was granted for this property on June 20, 2014 to remove a 39-inch tulip poplar in poor condition that was within the limit of disturbance.

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 all beneficial use of the property. The applicant proposes to remove the tree because of its close proximity to the future home and the fact that it now poses a safety hazard after recently sustaining storm damage. Consequently, full compliance with the Law would preclude the reasonable development of the lot. Therefore, we find that this 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 of the neighborhood. The petitioner's plight is due to unique circumstances associated with the location of the specimen tree to be removed and the fact that it was recently damaged in a storm, not due to 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 proposed house is in character with the residential development of which it will be part. 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. The specimen tree to be removed is outside of the Forest Buffer Easement. Moreover, the Forest Buffer Easement will be recorded along with its protective covenants to protect water quality in perpetuity. 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 variance arises from recent storm damage that occurred to a specimen tree that was originally to be saved in developing this lot, not as a result of actions by the applicant. Therefore, 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. Removing the one specimen tree in order to develop the residential lot would be consistent with the spirit and intent of Forest Conservation Law given that no impacts to water quality would result, and two other specimen trees would remain. Therefore, this criterion has been met.

Based on our review, this Department finds that all 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. Prior to this Department's approval of the building permit, a final forest conservation plan acknowledging this variance and detailing the protection of the remaining specimen trees in close proximity to the limit of disturbance must be approved by this Department.

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2. Prior to this Department's approval of the building permit, the Forest Buffer and Forest Conservation Easement and its Declaration of Protective Covenants must be recorded in Baltimore County Land Records via the Exhibit A or right of way plat process.
3. No mitigation will be required for the loss of the one specimen tree since it is in poor condition and within forest.
4. Please add the following note to all plans: "Forest conservation variances were granted by Baltimore County Department of Environmental Protection & Sustainability on June 20th and October 23, 2014 to remove two specimen trees. Conditions were placed on these approvals to ensure the project complies with the spirit and intent of the Forest Conservation Law."

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 property owners sign the statement on the following page 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 call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/ges

- c. Mr. & Mrs. David and Elizabeth White, Property Owners  
Ms. Marian Honecny, Maryland Dept. of Natural Resources

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

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Owner's Signature

Date

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Printed Name