

KEVIN KAMENETZ  
County Executive



VINCENT J. GARDINA, *Director*  
Department of Environmental Protection  
and Sustainability

December 14, 2015

Mr. Charles Griffith, P.E.  
Whitney Bailey Cox, & Magnani, LLC  
849 Fairmount Ave, Suite 100  
Towson, MD 21286

Re: Millridge Road Culvert  
Forest Conservation Variance  
Tracking # 02-15-2119

Dear Mr. Griffith:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on December 9, 2015. This request proposes to impact two specimen trees to facilitate a water quality improvement project to reduce sedimentation of an unnamed tributary to the North Branch of Jones Falls (Use III). The specimen trees to be removed are 30 and 34-inch DBH tulip poplars in fair to good condition.

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 his property. The applicant is seeking to eliminate approximately 300 linear feet of eroding ephemeral channel as part of the County's goal improve water quality to meet its TMDL requirements. Full application of the law would result in the project becoming infeasible. Consequently, 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 the fact that the specimen trees are located in such a manner that they cannot be avoided while performing the water quality improvements rather than the general conditions in the neighborhood. Therefore, we find the second criterion has been met.

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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. No change in land use would result from the water quality enhancement project. 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 very purpose of the construction activity is to reduce sedimentation downstream and improve water quality and aquatic habitat. Therefore, we find 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 necessitating this variance prior to requesting it. 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. Allowing the removal of two specimen trees for this water quality improvement project would be consistent with the spirit and intent of the Forest Conservation Law. 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 no mitigation since the specimen trees to be removed are within forest to be cleared and mitigated in accordance with an EPS-approved forest conservation plan.

If you have any questions regarding this correspondence, please call Glenn Shaffer at (410) 887-3980.

Sincerely yours,



Vincent J. Gardina  
Director

VJG/ges

- c. Ms. Marian Honeczy, Maryland Dept. of Natural Resources  
Mr. Nick Kadivar, Project Manager, Dept. of Public Works