

May 24, 2016

Mr. Devin Leary
Human & Rohde Inc.
512 Virginia Ave.
Towson, MD 21286

Re: Oheb Shalom at 7310 Park Heights Avenue
Forest Conservation Variance
Tracking # 02-16-2236

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on May 18, 2016. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the approximately 2,100-square foot limit of disturbance for constructing a modular trailer addition and associated sidewalks and utilities rather than the entire 5.4-acre portion of the religious institution in Baltimore County.

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 beneficial use of his property. The applicant is seeking to construct a small addition and is requesting a reduction of the afforestation requirement. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property, as it would not affect the amount of usable land, only the cost of complying with the Forest Conservation Law. Therefore, we find that 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

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conditions of the neighborhood. The petitioner's plight is due to unique circumstances associated with meeting the full afforestation requirement for constructing the addition 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 minor improvements proposed are consistent with the longstanding religious complex. Consequently, granting this variance will not alter the essential character of the neighborhood. 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. There are no streams, wetlands or floodplains on or near the site. Moreover, no trees or forest would be removed for the construction. 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 taken no prior actions necessitating this variance. 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. Reducing the afforestation obligation based on the limit of disturbance for making minor improvements to a church property would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest, specimen trees, or water quality would result. 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 with the understanding that this variance does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law. Due to the net tract area being based on a limit of disturbance less than a tenth of an acre, there is no afforestation required.

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 a new variance request.

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

Sincerely yours,

Vincent J. Gardina
Director

c. Mr. Ken Davidson, Oheb Shalom Congregation of Baltimore City

VJG/ges