

May 13, 2016

Mr. John Canoles
Eco-Science Professionals, Inc.
P O Box 5006
Glen Arm, Maryland 21057

Re: Victory Villa Elementary School
Forest Conservation Variance
Tracking # 06-16-2220

Dear Mr. Canoles:

A revised 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 May 3, 2016. This request proposes to remove two (2) specimen trees on site within the road right-of-way for the reconstruction of an elementary school. A forest buffer variance has already been granted for the impacts to and continued use of the forest buffer. There is no forest outside the floodplain on the property.

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. Redevelopment of the school could not occur without removal of the specimen trees in the Compass Road right-of-way and thus would deprive the petitioner of beneficial use of the property. 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 proposed school is sited in almost the same location as the existing school, retaining all the existing fields and playground and minimizing impact to the floodplain. The site contains two specimen trees between the school and

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the road right-of-way. The trees are proposed for removal because their location precludes the proposed road widening and sidewalk construction. The neighborhood is already developed and therefore the circumstances here are unique and not related to the conditions of 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 property is surrounded by residential development. The proposal to remove two specimen trees as part of the proposed redevelopment of the site will not change the 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. The new construction will meet all sediment and erosion control and stormwater management requirements during and after construction. The site is currently untreated for stormwater management. 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 petitioner has not removed the specimen trees. 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. The specimen trees are not within any existing forest. Mitigation in the form of a fee-in-lieu for specimen tree removal will be required. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of two specimen trees. Mitigation was accomplished through the payment of a fee-in-lieu."
2. A fee-in-lieu of \$ 2,208.93 must be paid for specimen tree removal prior to the approval of any permits.

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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 school representative sign the statement below 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 Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG/rae

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

Property Owner's Signature

Date

Property Owner's Printed Name