

April 12, 2016

Mr. Charles Brenton
Brenton Landscape Architecture, LLC
3120 Saint Paul Street, Suite E310
Baltimore, MD 21218

Re: Dream House LLC Property at 1 Wayman Street
Forest Conservation Variance
Tracking # 01-16-2183

Dear Mr. Brenton:

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 for the above referenced site on March 30, 2016. If granted, the variance would allow the removal of two (2) isolated specimen trees in order to construct two new single family detached residences. The trees include a 32-inch DBH tulip poplar that is leaning toward an adjacent residence and a 42-inch DBH tulip poplar in close proximity to one of the proposed houses. Both trees were in good condition until recent grading severely impacted their critical roots zones.

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 requests to remove two specimen trees in order to construct two single family residences. Both trees pose a safety hazard because their roots were severely damaged by recent grading. Moreover, redesigning the project at this point would not save the trees. Full application of the law would prohibit a resolution to the potential safety issue and would deprive the petitioner of all beneficial use of his property. We find that this criterion has been met.

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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 need for the variance described above is due to unique circumstances associated with the location of the trees along the property line and their relationship to the buildable portion of the property 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. Granting the variance to remove two specimen trees would allow two houses to be built on two lots in a consistent manner with the existing residential development pattern of the neighborhood. Therefore, the requested variance would not alter the essential character of the neighborhood, and 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. Removal of the two specimen trees will not impact wetlands, streams, or water quality. 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 taken any actions on the property necessitating this variance request. Although the property owner graded within the critical root zones of these trees, both trees already posed a safety issue due to their locations in close proximity to adjacent residences. 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. No forest is proposed to be removed, and the forest conservation requirements will be satisfied by retaining 0.2 acres of forest onsite in a Forest Conservation Easement. Furthermore, mitigation will be provided for the removal of the two isolated specimen trees. Therefore, we find that this variance would be consistent with the spirit and intent of law and that this criterion has been met.

Based on our review, this Department finds that all 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:

1. A Forest Conservation Plan (FCP) must be submitted and approved by EPS prior to issuance of any permits.

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2. Add the following variance approval note to all plans and plats for this project:
“A forest conservation variance was granted by Baltimore County Department of Environmental Protection & Sustainability on April 12, 2016 to remove two specimen trees. Conditions were placed on this variance to ensure the development met the Forest Conservation Law including payment of a fee in lieu of mitigation.”
3. A \$3,025.00 fee in lieu of mitigation fee shall be paid to Baltimore County prior to approval of any permit. This fee must be submitted with the FCP mylar.

It is the intent of this Department to grant this variance subject to the following conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner 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. John Russo at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

- c. Marian Honeczy, Maryland Dept. of Natural Resources
Vadim Bakaev, Dream House LLC

VJG/jgr

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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.

Property Owner's Signature

Date

Printed Name