

December 27, 2013

Mr. Henry A. Leskinen  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, Maryland 21057

Re: Lutherville Fire Company Addition  
Forest Conservation Variance Request  
Tracking #03-13-1732

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on December 9, 2013. This request proposes to remove 4 of the 6 specimen trees onsite and impact a portion of the critical root zones (CRZs) of the two remaining specimen trees that are on or adjacent to the property line. These impacts are being requested to allow expansion of the existing fire station. It has been determined that all six specimens are native species in fair condition or better and of those, all but one are within an open lawn area. The current site design was originally approved over five years ago but was not implemented due to financial constraints. The applicant proposes to mitigate for the specimen trees to be removed by providing a fee-in-lieu payment of \$3,456.00 into the Baltimore County Forest Conservation Fund.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six criteria listed in Subsection 33-6-116 (d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three 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 that the petitioner show that 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 construct an addition on an existing fire station building that predates the effective date of the Forest Conservation Law. This addition is necessary to serve the public safety and health needs of the general public. Full application of the law to the entire property would further

Mr. Henry A. Leskinen  
Lutherville Volunteer Fire Company Addition  
Forest Conservation Variance Request  
December 27, 2013  
Page 2

constrain the existing uses and prohibit any future expansion of the facility but it would not deprive the petitioner of all beneficial use of the property. 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 conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due to the small size and unusual configuration of the site as well as the clustered location of the existing specimen trees. Therefore, we find that this 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 granting of this special variance to facilitate construction of the proposed 8,655 square foot addition on the existing 2.37-acre property will not adversely affect the character of its 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. We have determined that there are no wetlands, streams or floodplains on or near the subject expansion. Furthermore, water quality management is being provided for impervious surfaces. 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 which is the result of actions taken by the petitioner. The request is based solely on the location of the specimen trees and the small and irregularly shaped configuration of the property. Furthermore, the petitioner has not taken any actions on the property prior to requesting this variance request. 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. Proposing to provide offsetting mitigation for the loss of the isolated specimen trees would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, we find that this criterion has been met by the variance request.

Based upon our review, this Department finds that the 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 conditions on the following page:

1. As proposed, permanent impacts to isolated specimen trees shall be mitigated by payment of a fee-in-lieu at the rate of \$0.50 per square foot of the CRZ credit. Therefore, prior to issuance of any grading or building permits, a fee of \$3,456.00 for permanent impacts to four specimen trees shall be paid to Baltimore County, EPS.
2. Specific silvicultural practices such as root pruning with a vibratory knife along the limit of disturbance (LOD) where the LOD is within the CRZs of the two impacted specimen trees to remain shall be detailed on the final forest conservation plan (FCP) to be approved by this Department prior to approval of any grading or building permit. The site plan associated with the building permit may be relabeled and serve as the FCP for this project.
3. Prior to issuance of any Baltimore County permit, blaze orange high visibility construction fence shall be installed along the LOD wherever the limit of disturbance is within 50 feet of any remaining specimen tree. The protective fence shall be illustrated on the plan view and mentioned in the sequence of operations on an approved final forest conservation plan.
4. The updated Forest Conservation Retention Bank Request, dated November 18, 2013, to provide 0.5 acre of joint afforestation/reforestation credit in an approved offsite retention bank must be executed and the signed original letter that served as the instrument of agreement shall be returned to this office prior to permit approval.
5. The following note must appear on all subsequent plans for this project:

“A variance was granted on December 27, 2013 to Baltimore County’s Forest Conservation Law to allow impacts to the specimen trees onsite. Conditions were placed on this variance, including paying a fee-in-lieu into the Baltimore County Forest Conservation Fund and protecting the specimen trees to remain.”

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’s chief manager sign the statement on the next 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.

Mr. Henry A. Leskinen  
Lutherville Volunteer Fire Company Addition  
Forest Conservation Variance Request  
December 27, 2013  
Page 4

If you have any questions regarding this correspondence, please contact Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG:msk

c. Marian Honeczy, Maryland DNR

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

---

Property's Representative's Signature

Date

---

Printed Name