

May 20, 2014

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

Re: Muir Property, 2912 Knoll Acres Rd. 21234  
Forest Conservation Variance  
Tracking # 03-14-1770

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law was received by the Department of Environmental Protection and Sustainability (EPS) on April 21, 2014. The request proposes to remove five specimen trees for the purpose of constructing a single family dwelling on a lot within a proposed minor subdivision. All five trees are within the existing forest outside the required forest buffer and near Knoll Acres Road. Four of the trees are Liriodendron tulipifera with diameters at breast height (DBH) of 30, 31, 33, & 37-inches. One of these trees is in poor condition, and the other three are in fair to good condition. The fifth tree is a 30-inch DBH Pinus strobus in 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 of the Baltimore County 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 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 proposes to remove 5 specimen trees on the 2.6-acre site. The five trees are located within forest to be cleared in the upland areas of the property. These trees cannot be retained without severely impacting the feasibility of the project. Without impacts to these trees, the building envelope of the second lot would need to be moved deeper into the priority forest causing more fragmentation. However, the site has an existing home that can be replaced without these impacts, and a beneficial use of the property would exist. Also, denying this variance request would not deprive the applicant of a reasonable use of the property. Therefore, this criterion is not 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 in the neighborhood. The variance request arises from a unique situation concerning the location of the five specimen trees on the referenced property relative to the forest buffer and the contiguous forest. The building envelopes for the single family homes have been located to allow for retention of the majority of forest on the site including thirteen other trees with a DBH greater than or equal to 30-inches. The development proposal is based on these unique conditions, and not from general conditions of the neighborhood. Therefore, this criterion is 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. This property is located adjacent to single family dwellings to the northwest, west, south, and east with a forested stream corridor to the west and northwest and protected forest to the north. Therefore, the proposed single family dwelling development of the site would be compatible with the neighborhood, and this criterion is 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. An adequate forest buffer has been proposed to provide water quality management for the stream located on and off the western portion of the site. In addition, the majority of existing forest on-site will be retained with no requirement for reforestation or afforestation. The forest retention area results in a greater than 20-acre contiguous forest area when considering off-site forest. Treatment of stormwater runoff is not currently occurring on the site, but will be provided for the development in accordance with current County regulations. Based on this, this criterion is 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 petitioner has not taken any action on the property that would necessitate this variance request. Therefore, this criterion is 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 majority of forest on-site is being retained and this includes an additional twelve specimen trees. Also, one specimen tree outside the existing forest will not be impacted. The five specimen trees to be impacted are located within existing forest, and the applicant is required by the law to mitigate forest impacts by meeting all forest conservation requirements. In this case, all requirements are being met with forest retention on the property. Therefore, this criterion is met.

Based upon our review, this Department finds that the 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:

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1. Meeting forest conservation requirements for the area of forest cleared will provide any necessary mitigation for the impact to these five specimen trees as these trees exist within the forest. A Forest Conservation Plan for this project must be approved prior to minor subdivision approval.
2. A note must be added to all plans stating that a variance was granted by Baltimore County EPS to allow for impacts to 5 specimen trees on this project site, and that mitigation was provided by meeting all forest conservation requirements with forest retention on-site.

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 owner sign the statement at the end of this letter 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 contact Paul Dennis at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/pad

c: Marian Honecny MDDNR

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

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Property Owner(s)

Date

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Printed Name(s)

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