

November 21, 2013

Mr. Donald Mitten, P.E.
Richardson Engineering, LLC
30 E. Padonia Road
Timonium, MD 21093

Re: Padonia P.A.L. Center
Forest Conservation Variance
Tracking # 03-13-1721

Dear Mr. Mitten:

A request for a variance from the Baltimore County Code, Article 33, Title 6, Forest Conservation has been reviewed by this Department of Environmental Protection and Sustainability (EPS). This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the approximately 1.2-acre limit of disturbance rather than the entire 14.3-acre property. The proposed redevelopment activity includes constructing a community youth center and expanding a portion of the existing parking lot.

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 make improvements to a County school campus that existed prior to the effective date of the Forest Conservation Law to serve the needs of the community. However, full application of the law to the entire property would not deprive the petitioner of beneficial use of his property. Therefore, we find that this criterion has not 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 proposed improvements are due to unique circumstances associated with the size of the community improvement project in relation to the much larger 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. Only 1.2 acres of the 14.3 acre school site would be disturbed, and the scope of the development activity is consistent with the current school use and 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. We have determined that no streams, wetlands, floodplains or forest will be adversely impacted by the proposed improvements. Furthermore, storm water management (SWM) will be provided in accordance with current SWM Law to treat the additional impervious surface area. 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 site prior to requesting 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 the improvements to an existing public school would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of 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 following conditions:

1. The project's 0.2-acre afforestation requirement (0.16 rounded to tenth acre) shall be met by paying a \$3,795.00 fee-in-lieu. Prior to issuance of any grading permits, the fee shall be paid to EPS.

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2. This variance approval does not exempt future redevelopment of this site from complying with Baltimore County's Forest Conservation Law.

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 party responsible for addressing the forest conservation requirements 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 Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG/ges

- c. Daniel Shumaker, Property Management

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

Responsible Party's Signature

Date

Responsible Party's Printed Name