

July 26, 2013

Mr. Devin Leary
Human and Rohde, Inc.
512 Virginia Avenue
Towson, Maryland 21286

Re: St. Joseph Roman Catholic Parish - Cockeysville
Forest Conservation Variance
Tracking # 03-13-1619

Dear Mr. Leary:

An amended 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) including a supporting alternatives analysis/forest retention investigation report and revised variance application were received on June 17, 2013. These documents propose to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 1.0-acre limit of disturbance rather than the entire 9.3-acre property and to remove two of the nine specimen trees on the property. The application of the law is associated with proposed redevelopment activities including relocating two existing playgrounds, removing a portion of the existing parking lot and constructing a 40' x 60' athletic field on an existing parochial school property. The vast majority of the limit of disturbance (LOD) occurs on previously utilized areas. The two specimen trees are a 36 inch DBH sycamore and a 35-inch DBH box elder, both 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(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 parochial school

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property that existed prior to the effective date of the Forest Conservation Law. While these proposed improvements are necessary to replace outdated facilities, disallowing them as a result of full application of the law would not deny the petitioner of beneficial use of this property.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 of the neighborhood. The proposed improvements are due to unique circumstances associated with this century-old 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 1.0 acre of the 9.3-acre property would be disturbed, and no change to the longstanding use of the property would occur. Consequently, the scope of the redevelopment project will 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. This redevelopment project will result in a Forest Buffer Easement being established from the stream and floodplain to reduce the potential for impacts to water quality. Moreover, the redevelopment activity will reduce impervious surface area in the Forest Buffer. 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 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 and providing mitigation for the removal of two specimen trees for the improvements to an existing parochial school property would be consistent with the spirit and intent of the Forest Conservation Law given that the vast majority of the forest onsite is being retained in a protective easement. Therefore, this criterion has been met.

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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 shall be met by paying a \$4,356.00 fee-in-lieu or by purchasing credit at an EPS-approved forest retention bank. A bank authorization letter has been enclosed for your use and to serve as the instrument of agreement with the bank owner. Prior to Environmental Agreement (EA) approval or permit issuance, the fee shall be paid to EPS, or the signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased.
2. Removal of the two native specimen trees shall be mitigated by paying a fee-in-lieu of \$2,227.00, which is based on \$0.50 per square foot of 25% of the critical root zone (CRZ). Please note that this fee-in-lieu will also have to be paid prior to EA or grading permit approval. Minor impacts that are occurring to the CRZs of five additional specimen trees may be minimized by protective measures during construction including, but not limited to, the installation of blaze orange high visibility fence along the southern LOD.
3. A forest conservation plan addressing the conditions of this variance as well as the requirements of Section 33-6-110 must be submitted to EPS and approved prior to EA approval or permit issuance.
4. This variance approval does not exempt future development activities at this site from compliance 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 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.

