

July 26, 2016

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: St. Charles Villa
Forest Conservation Variance
Tracking # 01-16-2287

Dear Mr. Leary:

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 July 18, 2016. If granted, the variance would allow the removal of three specimen trees in order to construct a four-space parking lot and a new entrance drive to an existing retirement residence for Sulpician priests. All the specimen trees to be removed are within a small isolated stand of forest and consist of a 32-inch diameter tulip poplar in fair condition, a 43-inch tulip poplar in poor condition and a 48-inch scarlet oak in fair 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 all beneficial use of his property. The applicant requests to remove three specimen tree in order to make improvements to an existing retirement facility. These improvements cannot be redesigned due to the size of the property and configuration of existing retirement facility. Full application of the law would prohibit these improvements to the property but would not deprive the petitioner of all beneficial use of the 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 need for the variance described above is due to unique circumstances associated with the location of the specimen trees relative to the proposed improvements 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 three specimen trees would improve the entrance drive and provide four additional parking spaces for an existing retirement facility that is surrounded by other high density residential retirement communities in the area. There are three other specimen trees onsite that are to remain. Therefore, we find that the requested variance would not alter the essential character of the neighborhood and 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. The removal of three 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 taken no prior actions necessitating 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. The forest conservation requirements for this project will be fully met, and the forest and specimen trees to be cleared are part of a small forest patch that has been fragmented over time by surrounding development. Consequently, 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. No mitigation will be required for removal of the three specimen trees given that they are within forest to be cleared and mitigated elsewhere in accordance with an EPS-approved forest conservation plan. Consequently, a final forest conservation plan acknowledging this variance must be

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approved by EPS staff prior to EPS approval of any grading plan or permit, whichever comes first.

It is the intent of this Department to grant this variance subject to any conditions cited herein. Any changes to site layout may require submittal of revised plans and a new variance request. Furthermore, granting of this variance does not exempt future development activity at this property from compliance with Baltimore County Forest Conservation Law.

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
Associated Sulpicians of the U.S.

VJG/jgr