

July 1, 2024

Robert Brittain  
Frederick Ward Association  
5 South Main Street  
Bel Air, MD 21014

Re: Middle River Middle School  
Forest Conservation Variance  
Tracking # 06-24-4049

Dear Robert Brittain:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Resource Management, Title 6 Forest Conservation was received by this Department on May 10, 2024. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 56,628 square foot (1.3-ac) limit of disturbance (LOD) rather than the entire 29.6-acre property. The property is devoid of forest, and the limit of disturbance will not critically impact any specimen trees.

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 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 tennis courts at Middle River Middle School, which existed prior to the effective date of the Forest Conservation Law. Full application of the Law would not preclude the improvement project, and the site is already developed as a middle school and tennis courts. Therefore, denying this variance would not deprive the petitioner of all beneficial use of the property; thus, 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. The variance request is being made to reduce project costs rather than general conditions of the neighborhood. Therefore, the petitioner's

plight is due to unique budgetary circumstances not associated with general conditions in the neighborhood. Consequently, we find that 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. The school has existed for decades in the neighborhood, which consists of mostly residential areas. Granting the variance to reduce the improvement project's cost and facilitate the subsequent completion of those improvements will not alter the essential character of the neighborhood. Therefore, 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 within the LOD. However, 2,394-sf of the LOD is within the Forest Buffer. Furthermore, storm water management (SWM) will be provided in accordance with Baltimore County's SWM Law. As a result, the proposed variance will not adversely affect water quality, so 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 to necessitate 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 DEPS 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 reforestation obligation based on the LOD for the renovations of the school facilities would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given the minimal size of the LOD and the fact that no forest would be impacted. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the above 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. Based on the net LOD of 56,628 square feet, the project's 0.2-acre afforestation requirement shall be addressed by planting high priority areas onsite for afforestation. Once those areas have been utilized, any remaining afforestation requirements can be addressed by purchasing credits in an EPS-approved forest planting bank. If no bank credits are available, the remaining requirement can be addressed by a fee-in-lieu.

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2. This variance applies solely to the current renovation project and does not grant leniency to or exempt any future development activity at this property from full compliance with Baltimore County's Forest Conservation Law.
3. A final forest conservation plan and worksheet reflecting the terms of this variance must be submitted to EPS and approved prior to approval of any grading or building permit for this project.
4. A note must be added to all subsequent plans stating: A variance to the Forest Conservation Law (tracking # 01-24-4033) was granted by Baltimore County EPS to base the afforestation requirement on the project's 1.3-acre limit of disturbance rather than the entire 29.6-acre property. Conditions were placed on this approval including providing 0.2-acre of afforestation.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department. 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.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on \_\_\_\_\_. Any changes to site layout may require submittal of revised plans and a new variance request.

If you have any questions regarding this correspondence, please call Jannifer Anderson at (410) 887-3980.

Sincerely yours,

Horacio Tablada  
Director

HT/jda

Cc: Merrill Plait, BCPS

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

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Property Owner' Signature

Date

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Printed Name