

July 1, 2024

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

Re: Saint James Academy
Forest Conservation Variance
Tracking #03-24-4118

Dear Devin Leary:

A request for a variance from Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on May 7, 2024. The request proposes the removal of two (2) specimen trees in order to allow for access road and parking lot improvements at an existing private school property. The specimen trees to be impacted include a 34-inch diameter-at-breast-height (dbh) white mulberry and a 43-inch dbh white mulberry, both in good condition. The request also includes relief from the requirement of full Forest Conservation Act compliance prior to approval of any grading or building permit for the access road and parking lot improvement project. This will allow the project to move forward while the applicant fulfills time-consuming Forest Conservation Act requirements.

The Director of the Department of Environmental Protection and Sustainability (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 to 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 the property. The applicant is seeking to widen the existing access road and expand an existing parking lot supporting an existing private school. Since the school already exists on the property, the applicant is already realizing beneficial use of the property without the requested variance. As such, full application of the law would not deprive the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires the petitioner to show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's

plight is due to the location of specimen trees in relation to the existing access road and parking lot, as well as the time constraints caused by the school year schedule. Consequently, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires the petitioner to show that the special variance, as requested, will not alter the essential character of the neighborhood. The surrounding neighborhood consists of low-density residential lots, agricultural fields and facilities, and forested areas. The school has been in operation on this property since 1821. The access road and parking lot already exist on the property. Therefore, we find that granting this variance will not alter the essential character of this 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. Granting the variance will not allow impact to any streams, wetlands, floodplains or associated buffers. The streams and their associated buffers on the property are already within a recorded Forest Buffer Easement, which will not be impacted by this project. Therefore, this Department finds that the proposed 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 resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires the Director of EPS to find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although two specimen trees would be impacted for this development and full Forest Conservation Act compliance will be delayed until after the project is permitted, 20.7 acres of forest that include other specimen trees will be undisturbed by the project and will ultimately be retained once Forest Conservation Law requirements are met at a later date. In light of these findings, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that the requested variance meets all required criteria. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. A simplified Forest Stand Delineation (FSD) and a preliminary Forest Conservation Plan (FCP) must be submitted to EIR for review prior to issuance of any permits for the access road and parking lot improvement project. A final FCP

and Forest Conservation Easement recordation must be completed and approved and all other conditions of Forest Conservation Act compliance met within six months of the date of approval of this variance decision.

2. The following note must be on all subsequent plans for this development project:

“A variance (tracking #03-24-4118) was granted by Baltimore County Department of Environmental Protection and Sustainability to allow impact to two (2) specimen trees in order to allow for proposed improvements to an existing access road and parking lot serving an existing school facility. The variance also allows full Forest Conservation Act compliance to be delayed until after permits have been issued for this project due to time constraints presented by the school calendar. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including an agreement that Forest Conservation Act requirements would be met within one year of grading permit approval for the proposed project.”

3. No mitigation is required for removal of the two specimen mulberry trees due to their status as exotic species.
4. This variance approval does not exempt future development activities at this site, including further specimen tree removal, from compliance with Baltimore County’s Forest Conservation Law.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page 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.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

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.

Sincerely yours,

Horacio Tablada
Director

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HT/lbe

- c. Vestry of Saint James Protestant Episcopal Church of Baltimore County
Rick Richardson, Richardson Engineering
Daniel Coy, Maryland Department of Natural Resources

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

Owner's Signature

Date

Printed Name