

January 8, 2018

Mr. Patrick Richardson Jr.  
Richardson Engineering LLC  
30 E. Padonia Rd. Suite 500  
Timonium MD 21093

Re: White Marsh Child Care Center  
8650 Winding Way Perry Hall MD 21228  
Forest Conservation Variance  
Tracking # 05-18-2637

Dear Mr. Richardson:

A request for a variance from Baltimore County's Forest Conservation Law for the above referenced site was received by the Department of Environmental Protection and Sustainability (EPS) on January 3, 2018. The request proposes to base the forest conservation requirements for the referenced project on the 0.1-acre limits of disturbance rather than the entire 4.1-acre site. The proposed development project involves the construction of a child care building with a 0.1-acre limit of disturbance in an area of no existing forest.

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 that the petitioner 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 his property. The child care center existed with the current uses prior to the forest conservation law. Expansion of the center requires an additional building, to provide improved service to clients. However, application of the law to the entire property would not result in unwarranted hardship to the applicant as the improvements could be completed if required to comply with the law for the entire property, and a beneficial use of the property would remain. Therefore, denying this variance request would not deprive the applicant of a reasonable use of the property and this criterion is not 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 arises from a unique situation concerning the addition of a building for expansion of a child care center that existed prior to the forest conservation law. The applicant's plight is due to the unique circumstances associated with the child care center, the existing site uses,

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and the proposed site uses to improve the child care center, and not from general conditions of the neighborhood. Therefore, this criterion is 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 multi-structure child care center has existed on this property since prior to the forest conservation law. There will be no change in the site uses as a result of the proposed redevelopment. Therefore, the proposed uses would be compatible with the neighborhood, and this criterion is 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. There are no streams, wetlands, 100-year floodplains, or forest buffers on the site, and there will be no impacts to forest or specimen trees for the new building. Existing forest on the western side of the site will remain undisturbed. The project must also meet all current stormwater management requirements. Therefore, granting of the special variance will not adversely affect water quality and this criterion is 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 which is the result of actions taken by the petitioner. The petitioner has taken no actions that required this variance request. Therefore, this criterion is 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. Allowing the forest conservation obligation to be based on the limit of disturbance for the construction of an additional child care center building on this site would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or adverse impacts to water quality would result from the proposed development. Therefore, this criterion is met.

Based on our review, this Department finds that 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. A note must be shown on all plans stating: "A forest conservation variance was granted by the Baltimore County Department of Environmental Protection and Sustainability on January 8, 2018 to allow the forest conservation requirements for this project to be based on the limit of disturbance rather than the entire site acreage. Conditions were placed on this approval to ensure the project met the goals and objectives of the Forest Conservation Law."
2. Due to the small limit of disturbance, no afforestation is required for the proposed project. Any changes to the limits of disturbance must be reported to EPS for additional review.

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3. A forest conservation plan (FCP) must be submitted, and approved by EPS prior to issuance of any permits. The existing development plan may be used as a base plan for the FCP provided that it is also labeled as a Forest Conservation Plan, and a note is added to explain the forest conservation requirements for this project. The plan must also contain the approved forest conservation worksheet and all required notes.
4. This variance is for this activity only and does not exempt future development at this site from the Baltimore County 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 at the end of this letter 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 contact Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/pad

c: MS MARIAN HONECZY

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

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Property Owner(s) Signature(s)

Date

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Printed Name(s)