

June 18, 2015

Mr. Henry Leskinen  
Eco-Science Professionals Inc.  
P O Box 5006  
Glen Arm MD 21057

Re: Zellinger Property, MLS Developing Lot 3  
1927 Hill Ave. 21234  
Forest Conservation Variance  
Tracking # 05-15-1991

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law for the above referenced property was received by the Department of Environmental Protection and Sustainability (EPS) on May 12, 2015. The request proposes to impact 991 square feet within an existing forest conservation easement for a practical rear and side yard area because of issues with steep slopes and a reduced principal structure setback that have resulted in a constrained rear and side yard. The applicant proposes to use the rear yard area for a playground for his children. The areas are non-forested due to historic disturbances, and contain herbaceous vegetation and some seedlings. In addition, the areas are located within a forest buffer that protects non-tidal wetlands to the north and east. No impacts to the 25-foot wetland buffer are proposed. A variance to the Baltimore County Law for the Protection of Streams, Wetlands and Floodplains has been granted for the areas that are the subject of this variance request.

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 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 applicant proposes to impact 991 square feet within an existing forest conservation easement for a practical rear and side yard area because of issues with steep slopes and a reduced principal structure setback that have resulted in a constrained rear and side yard. Because of the constrained rear and side yard areas, denying this variance request would deprive the applicant of a reasonable use of the property with beneficial uses. Therefore, this criterion is 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

Mr. Henry Leskinen  
Zellinger Property, MLS Developing Lot 3, 1927 Hill Ave. 21234  
Forest Conservation Variance  
Tracking # 05-15-1991  
June 18, 2015  
Page 2

neighborhood. The variance request is due to unique conditions on the property related to the location of the dwelling, the existing forest conservation easement, the slopes, and an impractical rear and side yard area. The proposed impact areas have been located to avoid impacts to existing trees, shrubs, streams, wetlands, and the minimum 25-foot wetland buffer. The proposed forest conservation easement impacts are due to these unique conditions, 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. This property is located adjacent to properties with single family dwellings to the east, south and west with newer lots being developed to the north. Some of these properties, including a commercial property to the south, are wooded similar to this property. This property meets forest conservation requirements with the proposed impacts. Based on the proposed conditions, the site will be compatible with the neighborhood. Therefore, 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. The forest buffer and forest conservation easement will remain as recorded on the property, and will remain subject to a declaration of protective covenants that is recorded in Baltimore County Land Records with the rear and side yard variance areas shown on a revised plan for this lot. The variance areas are for a playground for children and vegetated yard area only. Also, there are no impacts to streams, wetlands, or within 25-feet of non-tidal wetlands proposed. The impact areas are also non-forested at this time. Adequate water quality protection will result from the forest area retained on-site, and from the planting of native trees and shrubs on-site to mitigate the impacts. The existing forest conservation plan for this lot will be revised as required to meet all forest conservation requirements. Storm water management requirements in accordance with current County regulations has been provided on this property. Based on this, 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 not begun construction or grading on-site, and has not taken any other actions on-site that would necessitate 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. All forest conservation requirements are being met on the property, and mitigation for impacts will be provided by planting additional native trees and shrubs on the property. The existing forest conservation plan for the lot will be revised as required to meet these requirements. Therefore, this criterion is met.

Based upon our review, this Department finds that the 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, with the following conditions:

Mr. Henry Leskinen  
Zellinger Property, MLS Developing Lot 3, 1927 Hill Ave. 21234  
Forest Conservation Variance  
Tracking # 05-15-1991  
June 18, 2015  
Page 3

1. The existing forest conservation plan for this property must be revised and approved by this Department prior to August 31, 2015. This plan must include the proposed native tree and shrub planting proposed as well as planting along the forest buffer/conservation easement limits east of the dwelling out to the road area.
2. All conditions of the forest buffer variance granted for this property on February 2, 2015 must also be completed prior to August 31, 2015.
3. A note must be added to all plans stating that a variance was granted by Baltimore County EPS to allow for impacts to the forest conservation easement on this property for a practical rear and side yard area for a playground for children and additional vegetated yard area, and that mitigation was provided by meeting all forest conservation requirements, and by planting of native trees and shrubs on-site.

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(s) 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,

Vincent J. Gardina  
Director

VJG/pad

c: Marian Honecny MDDNR

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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)

Date

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Printed Name(s)