

August 28, 2018

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

Re: Klausmeier Subdivision
Klausmier Rd. Nottingham MD 21236
Forest Conservation Variance
Tracking # 05-18-2751

Dear Mr. Leskinen:

A request for a variance from Baltimore County's Forest Conservation Law for the referenced property was received by the Department of Environmental Protection and Sustainability (EPS) on June 29, 2018. The request outlines existing and proposed impacts to the critical root zones of 3 of the 8 specimen trees on the property. The 3 trees are *Acer platanoides* 39 to 54-inches in diameter at breast height and are not located within a forest or forest buffer area. The root zones of these trees have been historically impacted by the existing dwelling, the outbuildings, and existing driveways that are to remain in this proposed 49-lot subdivision. A new driveway to serve the existing dwelling, the creation of two of the new lots, and a portion of the public road are also proposed within the critical root zones of the trees. The applicant plans to meet forest conservation requirements with on-site afforestation.

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 create a 49-lot residential subdivision that includes the existing dwelling and outbuildings. Because the majority of the subdivision can be constructed without impacts to the specimen trees, the petitioner would not be deprived of all beneficial use of his property. Therefore, this criterion is not 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 in the neighborhood. This variance request is due to a unique situation concerning the location of the specimen trees on the property in relation to the existing uses and the proposed residential development. The development proposed is based on these unique conditions of the property, 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 development proposes 49 single family detached home sites. The project site is surrounded by residential subdivisions to the east, west, and south with single family detached homes, and a public school to the north. Because of forest buffer and forest conservation requirements, the stream and pond areas on the property will be afforested and protected as are stream corridors in nearby developments. Therefore, the proposed residential development of the site 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. Forest buffer non-disturbance areas to protect streams and wetlands are required, and afforestation on-site is required to meet forest conservation requirements. Also, stormwater management is being provided for the development in accordance with current County regulations. 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. This request is based on the location of specimen trees in relation to the existing uses that existed prior to the forest conservation law, and the proposed site improvements. There has been no work conducted on the property that would have required this 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. The development must meet all forest conservation requirements, including afforestation of the forest buffer areas on the property. These 3 specimen trees all have significant critical root zone impacts due to the historic uses of the property. 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:

1. Mitigation for the impacts to the 3 *Acer platanoides* specimen trees will not be required as these are non-native trees. The final forest conservation plan (FCP) for this project must be submitted and approved by EPS prior to issuance of any permits. The approved forest

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conservation worksheet, and all required notes, including information concerning the protection of the specimen trees to be retained must be included in this plan.

2. On all project plans, label specimen trees as “retain” or “remove” and add the following note:

A forest conservation special variance was granted by Baltimore County Department of Environmental Protection and Sustainability on August 28, 2018 to allow for impacts to 3 of 8 specimen trees on this project site. Mitigation was provided by meeting all forest conservation requirements as outlined on the forest conservation plan for the project. If any specimen tree shown on the plan “to remain” is proposed to be removed, special variance approval or written authorization must first be obtained from the Department of Environmental Protection & Sustainability.

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: Marian Honeczy MDDNR

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

Property Owner(s)

Date

Printed Name(s)

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