

March 12, 2024

Claire Fishman
Carroll Engineering, Inc.
215 Schilling Circle
Suite 102
Hunt Valley, MD 21031

Re: Evans Funeral Chapel
Forest Conservation Variance
Tracking # 05-24-4062

Dear Claire Fishman:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (DEPS) on January 31, 2024 in association with a proposed funeral and cremation service on Philadelphia Road in White Marsh. A previous request to remove four specimen trees for the proposed development was received on January 9, 2023 and withdrawn due to a re-design of the proposed building and parking lay-out. The current request would allow the removal of two specimen trees in conjunction with the proposed funeral and cremation service. There are a total of six specimen trees on and adjacent to the property. Four of the six specimen trees are located outside the forest. All of the specimen trees are in fair or better condition. The two specimen trees are proposed for removal to allow for the grading and construction of a funeral building and parking lot for the proposed funeral and cremation service.

The Director of DEPS 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 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 all beneficial use of this property. The 1.3-acre site currently consists of a small parking area, a lawn area, a small area of forest, and a floodplain. There was a building and a storage trailer associated with a previous tv sale and service business onsite that were removed fairly recently. There is a piped stream on the property that daylight on the two adjacent properties. The petitioner is proposing a funeral and cremation service that will include a funeral home building, associated parking, utilities, and a reflection plaza. The proposed development would result in the removal of two of the six specimen trees on and immediately adjacent to the property.

Given that the property had a previous commercial business that operated without having to remove any of the existing specimen trees on and adjacent to the property, it is possible that a smaller business could operate on the site without impacting the two specimen trees proposed for removal. Since it is possible to develop the property without impacting the two specimen trees, compliance with the Forest Conservation Law will not deprive the petitioner of all beneficial use of the property. Consequently, we find that 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 of the neighborhood. There are six specimen trees that are scattered throughout and immediately adjacent to the property. The need to remove the specimen trees is a result of their distribution across the property and the space needed to create a funeral home with a sufficient number of parking spaces. These circumstances are unique to this property and not the general conditions in the neighborhood. Therefore, we find 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 proposed funeral and cremation service will result in the construction of a funeral chapel and cremation services facility, parking areas, and a reflection plaza. The proposed development will replace a former commercial tv sales and service business. The property is zoned BR (Business Roadside), BL (Business Local), and DR 3.5 (Density Residential) and is located in close proximity to other commercial businesses along Philadelphia Road. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, 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. There are no non-tidal wetlands on the property. A piped stream exists onsite that daylight on the two adjacent properties. The forest buffer consists mostly of lawn and a small area of forest. Minor impacts to the forest buffer associated with grading for the funeral building and a stormwater outfall are proposed. The forest buffer mitigation required for the buffer impacts and the afforestation required for forest conservation compliance will result in the planting of trees in open areas of the forest buffer. In addition, stormwater management is proposed for the development. Stormwater management was not addressed for the previous development. Therefore, we find that granting the 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 variance request arises from the distribution of the specimen trees on the property. The specimen trees are scattered throughout the property making it difficult to develop the site without impacting the specimen trees and their critical root zones. Therefore, the petitioner has taken no actions necessitating this variance prior to its request, and 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. The property owner originally proposed removing

four of the six specimen trees on and adjacent to the property. The development was re-designed and the number of specimen trees to be removed was reduced from four to two. Mitigation will be provided for removal of the two specimen trees. This project is a re-development of a previous commercial site and none of the existing forest onsite will be impacted. Forest conservation will be addressed onsite with the planting of twenty trees in an open area of forest buffer. Therefore, we find that this variance request is consistent with the spirit and intent of Article 33 of the Baltimore County Code. Therefore, this criterion has been met.

Based on our review, this Department finds that all of 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 fee-in-lieu of specimen tree mitigation in the amount of \$2,217.40 shall be paid for the two specimen trees proposed for removal that are located outside the forest prior to the issuance of any permits for the proposed development. Checks must be made payable to Baltimore County.
2. The final forest conservation plan must reflect the conditions of this variance.
3. All plans prepared for Evans Funeral Chapel must include the following note:

“A Forest Conservation Specimen Tree Variance (Tracking Number 05-24-4062) was granted by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of two specimen trees. Conditions were placed on this approval to mitigate the loss of these trees, including payment of a fee-in-lieu of mitigation. 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.”

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. If there are any questions regarding this correspondence, please contact Mr. Gris Batchelder 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,

Horacio Tablada
Director

Claire Fishman
Evans Funeral Home
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HT/cgb

cc : Charlie Evans
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.

Responsible Party's Signature

Date

Responsible Party's Printed Name