

February 16, 2024

Merril Plait
Baltimore County Public Schools
9610 Pulaski Park Drive
Baltimore, MD 21220

Re: Ridgely Middle School
Forest Conservation Variance
Tracking # 03-24-4043

Dear Merrill Plait:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on February 8, 2024. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 38,360 square foot (0.9-ac) limit of disturbance (LOD) rather than the entire 21.6-acre Ridgely Middle School property. The property has several small forested stands scattered around the parcel outside of the proposed LOD. No forest is proposed to be cleared, and the limit of disturbance will not critically impact any specimen trees.

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 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 beneficial use of his property. The applicant is seeking to make improvements to athletic facilities that existed prior to the effective date of the Forest Conservation Law. The improvements include replacing the existing hard surface courts and fencing around the courts. Full application of the Law would not preclude the continued use of the courts or the existing middle school as the site is already developed with tennis and basketball courts. Therefore, denying this variance would not deprive the petitioner of all beneficial use of the property; thus, 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 in the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight is due to unique circumstances associated with the amount of afforestation required under full compliance. 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 existing parcel is currently utilized as a middle school. The LOD encompasses an area that is currently developed as tennis and basketball courts. Additionally, no forest or specimen trees would be cleared. Finally, the middle school and associated athletic facilities have been present in the community since 1959, and no general change in the long-standing use would result. Therefore, we find that the variance, as requested, will not alter the essential character of the 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. We have determined that there are no wetlands, streams or floodplains on site. Moreover, storm water quality management regulations will be met in constructing the new athletic courts. Therefore, we find that granting of the special 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 on the property to necessitate this variance. Therefore, this criterion has been 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. Reducing the afforestation obligation based on the limit of disturbance for the replacement of existing athletic facilities would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the above 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. Based on 15% of the 0.9-acre LOD, the project's 0.1-acre afforestation requirement shall be addressed through the purchase of credits in an EPS-approved forest planting

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bank or by paying a \$2,396 fee-in-lieu of planting, should no bank be available. The enclosed bank letter shall serve as the instrument of agreement with the bank operator. The executed bank letter documenting the purchase or the \$2,396 check made payable to Baltimore County must be submitted to EPS prior to approval of any grading or building permit.

2. This variance applies solely to the current project and does not grant leniency to or exempt any future development activity at this property from full compliance with Baltimore County's Forest Conservation Law.
3. A final forest conservation plan and worksheet reflecting the terms of this variance must be submitted to EPS and approved prior to approval of any grading or building permit for this project.
4. A note must be added to all subsequent plans stating: A variance to the Forest Conservation Law (tracking # 03-24-4043) was granted by Baltimore County EPS to base the afforestation requirement on the project's 0.9-acre limit of disturbance rather than the entire 21.6-acre property. Conditions were placed on this approval including providing 0.1-acre of afforestation.

Please have the appropriate Baltimore County Public Schools (BCPS) representative sign the statement below 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.

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.

If you have any questions regarding this correspondence, please call Jannifer Anderson at (410) 887-3980.

Sincerely yours,

Horacio Tablada
Director

HT/jda

Enclosure

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c. Kristy Bischoff-Daft, McCune, Walker, Inc.

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

BCPS Representative's Signature

Date

Printed Name