

July 29, 2024

Kristen Rigney
1719 Hunter Mill Road
White Hall, MD 21161

Re: Sharp Property
1719 Hunter Mill Road
Forest Conservation Variance
Tracking # 03-24-4130

Dear Kristen Rigney:

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 June 6, 2024. This request proposes to impact 9,838 square-feet of Forest Conservation Easement (FCE) in order to replace a failing septic system on a residential property. Approval of the request will allow the decommission of the outdated septic system and the installation of a new septic tank and associated drain field and the establishment of a 5,000 square-foot septic reserve area. The replacement system will be located in the same general area as the old system and only result in a net increase of 508 square feet of impact to the easement.

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 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 his property. The applicant is seeking to construct an 1,850 square-foot addition to an existing residential dwelling. The dwelling is located on a lot that includes both forest buffer and forest conservation easements that were established as part of a minor subdivision approved in 1999. During the building permit review process for the addition, the Department's Groundwater Section noted that the existing septic system is failing and must be replaced with a new system that meets current standards. The existing septic system is located within the FCE and Forest Buffer Easement (FBE) on the property. It is not possible to replace the existing septic system without impacting the

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FCE and FBE due the extent of the FCE, FBE, steep slopes, and the well location on the property. A separate forest buffer variance was submitted for the FBE impact and will be addressed in a separate correspondence. The inability to replace a failing septic system to avoid impacting the FCE on the property would deny the petitioner all beneficial use of the property. As a result, we find that the first criterion has 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. The request to impact the FCE is a result of the condition of the existing septic system, the location of the FCE, and the lack of replacement area outside the easement due to steep slopes and the existing well location. Since the plight of the property owner is due to unique circumstances and not the general conditions of the neighborhood, 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 property is located in a wooded area in northern Baltimore County. The replacement septic system will be located in the same general areas as the existing septic system and no trees will be removed during the replacement process. As a result, we have determined that granting this variance will not alter the character of the neighborhood. Therefore, we find 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. The existing system is failing and potentially causing excess nutrient issues to the adjacent wetlands and stream on the property. Replacing the existing septic system with a system that meets current Baltimore County standards will protect the water quality of the wetland and stream resources on the property. The installation of the new system will not impact the wetlands and stream onsite. Therefore, we find 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 necessitating this variance prior to its request. The variance request is a result of an outdated and failing septic system and the lack of available area outside the FCE on the property to replace the old system. 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. Replacing the old septic system with a new system that meets Baltimore County Code will protect the water quality of the wetlands and stream on the property. In addition, no trees will be removed and no wetlands or streams will be impacted as part of the project. Also, the new septic

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system will be located in the same general area of the FCE as the old septic system and only result in a net increase of 508 square feet to the easement. Finally, any areas of the old septic system not utilized for the new system will be seeded and stabilized and will be allowed to revegetate naturally. As a result of the items listed above, the proposed variance request would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, this criterion has been 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. Any areas of the old septic system disturbed and not utilized for the new system will be seeded and stabilized and will be allowed to revegetate naturally.
2. All plans prepared for this property must include the following note:

“A Forest Conservation Variance (Tracking Number 03-24-4130) was granted by the Baltimore County Department of Environmental Protection and Sustainability to allow 9,838 square feet of impact to the Forest Conservation Easement on the property to replace a failing septic system. Conditions were placed on this variance to mitigate for the easement impact including seeding and stabilizing any areas of the old septic system disturbed and not utilized for the new system and allowing these areas to revegetate naturally.”

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. 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 call 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

cc: Allison Diviney, Groundwater Management

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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