



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

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January 24, 2013

Mr. Matthew Shanley
4633 Doncaster Drive
Ellicott City, MD 21043

RE: WP-14-070, Ellicott Woods, Lot 28
(F-13-116)

Dear Mr. Shanley:

Regarding the above referenced waiver petition, this Division is advising you that no action can be taken on the waiver request for Sections 16.1205(a)(7) & 16.1205(a)(10) to allow removal of state champion trees, trees 75% of the diameter of state champion trees, and trees 30" in diameter or larger until the following information is provided to allow for proper evaluation of the waiver request by DPZ:

1. Pictures of the specimen tree and the condition of the tree.
2. The type of specimen tree to be removed.
3. It appears that the proposed dwelling on Lot 30 could be moved further to the north on Lot 30 in order to save the specimen tree. If this is not feasible please provide documentation or additional explanation of why the dwelling cannot be moved forward to save the specimen tree.

The requested information/revised plans must be submitted to this Division within 45 days of the date of this letter (on or before **March 10, 2014**), or this Division will recommend that the Planning Director deny this waiver to Sections 16.1205(a)(7) & 16.1205(a)(10).

In reference to Section 16.120(b)(4)(iii)(b)- For a lot or buildable preservation parcel of 10 acres or greater in size floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention may be located on the lot or parcel if the building envelope is no closer than 35 feet from these environmental features, provided that a deck may project 10 feet beyond the building envelope.

As of the date of this letter, the Planning Director **DENIED** your request to waive Section 16.120(b)(4)(iii)(b) from the Howard County Subdivision and Land Development Regulations.

Denial was based on the following reasons:

1. In accordance with Section 16.120(b)(4) "Usable Design", residential lots shall be designed to be usable and not be encumbered with environmentally sensitive features including wetlands, streams or their buffers, 25% steep slopes, 100 year flood plain and forest conservation easements (FCE) for afforestation, reforestation or retention, unless the lot or parcel is at least 10 acres in size.
2. In accordance with Section 16.117(b) of the Subdivision and Land Development Regulations, all FCE's in residential subdivisions shall be located in open space lots or non-buildable preservation parcels, except as permitted by Section 16.120(b)(4)(iii)b of the Regulations which allows forest

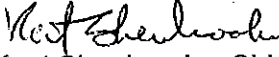
easements only on residential lots of 10 acres or greater.

3. The subject property is restricted by an existing adjoining BGE utility easement which would limit the placement of FCE on Lot 30. In accordance with the attached Department of Planning and Zoning Policy dated January 8, 2008, concerning placement of FCE's near or adjacent to BGE power lines or right of ways a forest retention easement shall be located at least 45 feet from a BGE power line easement or right-of-way.
4. In response to numerous complaints and requests prompted by property owners affected by forest conservation easements that were recorded on their residential lots, they often request from DPZ for modifications or abandonments of the recorded FCE. The County policy is to prohibit the establishment of new FCE's on residential lots less than 10 acres in size. Occasionally, the Department of Planning and Zoning may permit the establishment of a new FCE on lots 3 acres or greater based on submission of a waiver petition demonstrating more than adequate justification for its allowance and conditioned upon providing a minimum spacing setback of 75' to 100' or greater from the rear of any proposed dwelling. Therefore, it is our policy to no longer permit establishment of new FCE's on smaller residential lots less than a minimum of 3 acres based on our years of experience since adoption of the Forest Conservation Act of 1992. Property owners on smaller residential lots want the use and enjoyment of their lot for typical family recreational uses, including swimming pools, fences, sheds, play sets, play courts, etc. and they do not want the on-lot restrictive use encumbrance that a recorded FCE places on the property.

Indicate this waiver petition file number, request, section of the regulations, action, conditions of denial and date on all related plats, and site development plans, and building permits.

If you have any questions, please contact Jennifer Wellen at (410) 313-2350 or email at jwellen@howardcountymd.gov.

Sincerely,


Kent Sheubrooks, Chief
Division of Land Development

KS/jw

Attachment:

cc: Research
DED
Real Estate Services
CLSI
PDOX-F-13-116