

ATTACHMENT 4

March 2, 2012

Mr. Mark Pfefferle
Environmental Planning Division
Maryland National Capital Park and Planning Commission (M-NCPPC)
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Bel Pre Elementary School
Request for Tree Disturbance Variance
MNCPPC NRI 420110380

Dear Mr. Pfefferle:

On behalf of the Montgomery County Public Schools and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and recent revisions to the State Forest Conservation Law enacted by S.B. 666, we are writing to request a variance(s) to allow removal of the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named County construction project:

Project Description:

The existing Bel Pre Elementary School is located along 13801 Rippling Brook Drive in Silver Spring, Montgomery County Maryland. The site is approximately 8.83 acres and is comprised of two parcels owned by The Board of Education. The site currently hosts the existing school, some modular buildings, play areas and associated parking. The remainder of the site is wooded with stream and wetland buffers. The site is surrounded by park property and single-family homes. There are multiple proposed category I easements on the property that were not recorded for the prior construction. These easements are being treated as existing forest for calculation purposes of this project.

Proposed construction consists of a new school, improved circulation and parking, additional play areas and pedestrian access.

Requirements for Justification of Variance:

Section 22A-21(b) *Application requirements* states that the applicant must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Justification of Variance

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Response: As part of the program, the task was to provide the community with an updated elementary school facility that can accommodate a growing number of students as well as a modernized, safe and healthy environment for young students to learn. Efforts have been made to impact as little of the forest on site as possible because forest is a highly valuable resource.

This site is small for an elementary school at under 9 acres total. Site area is further taken up by steep slopes, stream buffer, wetland buffer and floodplain. Innovative stormwater management is introduced into the site in the form of “weeping bioretention” that works with steep slopes instead of leveling areas and installing retaining walls for the stormwater management. Impacts to the trees is in large part due to the proposed two story building footprint replacing the one story along with a reduced ballfield and geothermal field.

This work will require disturbance of the root zones of fourteen (14) specimen trees but will not require their removal. The proposed plans will require the removal of eight (8) specimen trees. It should be noted that the trees that need to be removed are primarily part of the existing forest on site. This results in an impact of a total of 22 live trees. If we are not allowed to impact or remove these trees, there would not be adequate room for the development program.

If we are not allowed to impact the trees, the school will not be able to be update due to the close proximity of specimen trees to the school building. As such, this would cause an *unwarranted hardship* to the community that it serves.

- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

Response: If the County were required to keep all improvements outside the root zones of the specimen trees, the building would fail to be rebuilt due to the close proximity of specimen trees.

- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

Response: The trees to be removed have been limited to the central area of the site and away from natural drainage systems. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes Environmental Site Design to provide for protecting the natural resources to the Maximum Extent Practicable. This includes limiting the impervious areas and providing on-site stormwater management systems. A Stormwater Management Concept is currently under review by the Montgomery County Department of Permitting Services to ensure that this criterion is enforced. Therefore, the proposed activity will not degrade the water quality of the downstream areas and will not result in *measurable degradation in water quality*.

- (4) Provide any other information appropriate to support the request.

Response: The reforestation planned for the site is meant to enhance the quality of the forest onsite and provide a greater environmental and educational quality to the school after its modernization.

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;

Response: The Bel Pre Elementary School Addition is in conformance with the County's General plan. As such, this is not a *special privilege* to be conferred on the applicant.

- (2) Is based on conditions or circumstances which are the result of the actions by the applicant;

Response: Montgomery County Public Schools has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.

- (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or

Response: The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

(4) Will violate State water quality standards or cause measurable degradation in water quality.

Response: Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

SPECIMEN TREE SUMMARY

TREE #	SPECIES	DBH (INCHES)	TREE CONDITION	COMMENTS	STATUS	VARIANCE REQUEST	%CRZ IMPACTS
3	RED OAK	31	GOOD		REMOVE	YES	51
8	RED OAK	30	GOOD		REMOVE(POTENTIAL SAVE)	YES	35
12	SAWTOOTH OAK	28	GOOD		REMOVE	YES	100
28	PIN OAK	34	FAIR	OFFSITE/DEAD LIMBS	SAVE & PROTECT	YES	1
32	YELLOW POPLAR	32	GOOD	OFFSITE	SAVE & PROTECT	YES	6
34	RED OAK	42	GOOD	SPLITS @ 8'	SAVE & PROTECT	YES	15
37	YELLOW POPLAR	36	GOOD	SPLITS @ 5'	SAVE & PROTECT	YES	31
41	RED OAK	30	GOOD		SAVE & PROTECT	YES	1
42	BEECH	30	GOOD		REMOVE	YES	43
43	YELLOW POPLAR	30	GOOD		SAVE & PROTECT	YES	37
44	BEECH	31	GOOD		SAVE & PROTECT	YES	40
46	YELLOW POPLAR	36	GOOD		SAVE & PROTECT	YES	6
50	BEECH	32	GOOD		SAVE & PROTECT	YES	4
61	YELLOW POPLAR	39	GOOD		SAVE & PROTECT	YES	4
89	BEECH	40	GOOD	OFFSITE	SAVE & PROTECT	YES	2
92	BEECH	34	GOOD		SAVE & PROTECT	YES	6
95	YELLOW POPLAR	31	GOOD		SAVE & PROTECT	YES	19
96	MOCKERNUT HICKORY	26	GOOD		REMOVE	YES	100
100	BEECH	31	GOOD		REMOVE	YES	100
102	RED OAK	30	GOOD	OFFSITE	SAVE & PROTECT	YES	22
105	SILVER MAPLE	34	GOOD		REMOVE	YES	54
112	RED OAK	31	GOOD		REMOVE	YES	100

For the above reasons, the applicant respectfully requests that the Planning Board APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to remove the specimen trees in order to allow the construction of this vital project.

Sincerely,



Michael Norton

Copy to:

Mr. Rakesh Bagai, MCPS

Mr. David Oakes, Grimm+Parker Architects