

1 **Forest Venture II, LLC**
2 **(c/o Richard Talkin Esq.),**
3 **Petitioner**
4 **ZRA 123**

* **PLANNING BOARD OF**
* **HOWARD COUNTY, MARYLAND**

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6 **MOTION:** To recommend approval with conditions of the proposal to amend Section 100.G of the
7 Zoning Regulations to allow the Zoning Board to approve variances to the bulk
8 regulations in conjunction with site plan zoning petitions.

9 **ACTION:** *Recommended approval of Petition with modifications; Vote 3 to 0.*

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11 **RECOMMENDATION**

12 On December 10, 2009, the Planning Board of Howard County, Maryland, considered the petition
13 of Forest Venture II, LLC (c/o Richard B. Talkin, Esq.) to amend Section 100.G.2.g of the Zoning
14 Regulations to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site
15 plan zoning petitions.

16 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation
17 were presented to the Board for its consideration. The Department of Planning and Zoning recommended
18 that the Petitioner's request be approved.

19 The Petitioner was represented by Sang Oh, Esq. Angie Beltram, representative for the Howard
20 County Citizens Association (HCCA) and Cathy Hudson appeared in opposition to the petition. Mr. Oh
21 said that the proposed amendment would be a good change. He said that the process for several projects
22 requiring variances such as the Lorien Elkrige project were lengthened and complicated, and less effective
23 with the additional step of returning for variance approval. Currently, a project can receive Zoning Board
24 approval but the petitioner may still not know if the project can proceed because the variance decision
25 affects its implementation. . He said the legal sufficiency is valid for the Zoning Board to make decisions
26 on this issue.

27 The petitioner was questioned that while the benefit of increasing the efficiency of the process is
28 clear, would there be any negatives to allowing the Zoning Board to approve variances (specifically, would
there be a loss of due process?), i.e., a situation that would benefit from a "cooling-off" period for the
public to consider the variance request. Mr. Oh said the documented site plan process is tightly controlled
and he does not see a downside to it. Mr. Oh stated that public involvement tends to be front loaded on
zoning cases and if done simultaneously would permit the public to offer input on multiple issues without
having to follow the process and return at a later date.

29 **Testimony:**

30 Ms. Beltram testified that the HCCA is opposed to the amendment as written. She said the
31 opposition was not to the Zoning Board having approval authority for variances, but the notification process

1 and public awareness of the meaning and implications of a variance. She said the HCCA is concerned that
2 citizens would not have due process to appeal a variance even if they agree with the documented site plan.
3 She said the Zoning Board should have the power to approve, deny or modify a variance and that signs
4 need to be posted and the written notification be written to spell out the exact amounts of variances. She
5 also stated that the Zoning Regulations should include the requirement that a variance petition be filed with
6 a documented site plan requiring a variance.

7 Cathy Hudson testified that she agreed with Ms. Beltram. She stated that under the current
8 procedures for variance petitions, a sign is posted advertising the specific variance request and there is a
9 separate hearing in which citizens can testify.

10 Mr. Oh stated that because the site plan and variance are separate processes, a variance application
11 would be required to be filed with documented site plans. He said the documented site plan is a very
12 “notification-intense” process and the neighbors would be notified of the variance and that a variance
13 petition would be required.

14 **Discussion:**

15 David Grabowski made a motion to discuss the proposal. Paul Yelder seconded the motion. The
16 Board agreed the proposal offers a way to shorten the process without reducing public input. By the Zoning
17 Board addressing the zoning and variance requests independently, citizens/petitioner may appeal them
18 independently as well. Additionally, the process affords the opportunity for further review by the Planning
19 Board if the Zoning Board denies a variance which results in a significantly altered plan. The Board agreed
20 to support the proposal with the four following modifications provided the Howard County Office of Law
21 finds legal sufficiency to empower the Zoning Board:

- 22 1. Confirm that the site plan and variance request are separate issues and each can be decided
23 by the Zoning Board independently and that each is appealable independently of the other;
- 24 2. Notification for multiple requests should be done; notification of a variance must be in the
25 written notice sent to adjoining property owners and others required to be notified; the
26 specific information about the amount of the variance must be clearly posted on a sign
27 located on the property; and the Zoning Regulations should include in the amendment that
28 a variance petition is required to be filed with the petition.
3. The Zoning Regulations should be amended to permit the Zoning Board to approve, deny
or modify a variance request; and that the Zoning Board has the authority to require a
modified site plan.
4. The Howard County Office of Law should research any changes to other regulations
which may be affected by the amendment in order to avoid any potential code conflicts.

Motion and Vote:

Mr. Grabowski restated the motion to accept the recommendation of the Technical Staff Report to

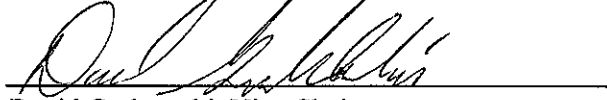
1 approve the petition with the four noted additional recommendations. Mr. Yelder seconded the motion and
2 it passed by a vote of 3 to 0.

3 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 21st day of
4 January, 2010, recommends that the Petitioner's request to amend Section 100.G.2.g of the Zoning
5 Regulations be APPROVED with the four noted recommendations.

6 HOWARD COUNTY PLANNING BOARD

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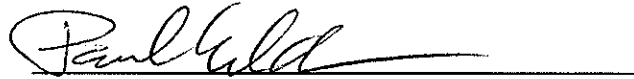
8 Linda A. Dombrowski, Chairperson

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10 David Grabowski, Vice Chairperson

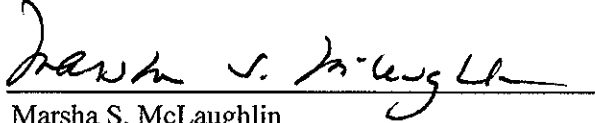
11 ABSENT

12 Tammy J. CitaraManis

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14 Paul Yelder

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16 ATTEST:

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18 Marsha S. McLaughlin
19 Executive Secretary

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