

IN RE: PETITION FOR VARIANCE

W side Fenor Road, 400 feet S of
c/1 Virginia Avenue
13th Election District
5th Councilmanic District
(4438 Fenor Road)

Gene H. and Sharon D. Smith
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* Case No. 08-091-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owners of the subject property, Gene H. and Sharon D. Smith. Petitioners are requesting variance relief from Section 400.1 (1.1 B.C.Z.R. 2/1955) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (covered deck) in the side yard in lieu of the required rear yard. The subject property and the requested relief are more fully described on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner Gene H. Smith. There were no Protestants or other interested persons in attendance at the hearing.

This matter is currently the subject of an active violation case (Case No. 07-7051) in the Division of Code Inspections and Enforcement. A citation for code violation was issued in this matter due to the fact that a shed and pool deck, as well as the covered deck which is the subject of this hearing, were all constructed without required building and electrical permits.

It should be noted that the fact that a zoning violation is issued is generally not relevant to this zoning case. This means that, on the one hand, Petitioner cannot use the fact that a structure

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has been built to set a precedent in order to allow it to continue. Nor does the fact that a structure may be costly to remove or modify come into consideration of the zoning case as a mitigating factor. On the other hand, the fact that a structure may have been constructed in such a manner or in such a location as to possibly violate the zoning regulations is not held against Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. As a result, this case will be decided on its own merits and not as part of any additional Code Enforcement matter.

Testimony and evidence offered revealed that the subject property contains 6,361.2 square feet or approximately 0.146 acres, more or less, zoned DR 10.5. It is improved with an existing two-story end-of-group row home with an above-ground pool in the back yard, and is located in the Halethorpe area of Baltimore County. Petitioner has resided at the subject property since approximately 1999 with his wife and daughter. Petitioner's daughter is afflicted with cerebral palsy and related medical problems and is confined to a wheelchair with very limited mobility. Over the years, Petitioner has attempted to modify the interior and exterior of his home to meet his daughter's special needs. This has included installing a chair lift inside the home at the interior staircase, as well as building a ramp from the back of his home to the back yard, and a ramp to the deck area located on one side of the above-ground pool. This has also included building a 12 foot by 24 foot ground level covered deck on the side of his property. This area has outdoor furniture and a stretcher-like apparatus with room for Petitioner's daughter's wheelchair nearby. When the stretcher is wheeled onto the covered porch, it allows Petitioner's daughter to sit upright and to be outdoors with the rest of the family and relatives. A letter from Petitioner which accompanied his Petition, and which details the reasons for

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constructing the covered porch, was marked and accepted into evidence as Petitioner's Exhibit 2. Photographs of the ramp from the back of the home and the ramp leading up to the pool deck were also marked and accepted into evidence as Petitioner's Exhibits 3 and 4, respectively. In addition, a photograph showing the covered deck structure was marked and accepted into evidence as Petitioner's Exhibit 5.

In further support of Petitioner's request for variance in order to keep the covered porch in its present location at the side/front yard in lieu of the rear yard, Petitioner indicates that his daughter suffered a stroke and as a result, lost the use of a portion of her brain, her brain stem, and thalamus which controls and regulates body temperature. Petitioner also indicates that the porch is located in an area of the yard that has some shading with trees, mostly out of direct sunlight. Moreover, because the sunlight may cause Petitioner's daughter to become overheated, the roof covering the porch allows for additional protection from the sun. Petitioner presented letters from his daughter's physician and neurologist, each indicating his daughter's condition and the need to avoid direct heat or sunlight. These letters were marked and accepted into evidence as Petitioner's Exhibits 6 and 7, respectively.

Essentially, Petitioner indicates that while his is trying to give his daughter the best quality of life he can, including enjoyment of the outdoors, he also must take into account her medical limitations and has attempted to make the appropriate modifications to his home. When asked why he did not first obtain permits or zoning review for these projects, Petitioner indicated he simply did not realize he needed approval for these minor structures and apologized for his error. Petitioner also indicates that another reason he placed the covered porch at the side yard of his home is because most of the back yard area is taken up by the ramps that are necessary to

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move his daughter outside the home and to the pool area for supervised swims, which help in his daughter's physical therapy.

Considering all the testimony and evidence presented, I am persuaded to grant the requested variance relief. In particular, and for the reasons articulated by Petitioner, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I further find that these are the kind of peculiar circumstances that make the regulations impact this property disproportionately compared to others in the district. Therefore I find the property unique in a zoning sense.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship to Petitioner and his family.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that the variance request should be granted.

THEREFORE, IT IS ORDERED, this 30th day of October, 2007 by this Deputy Zoning Commissioner, that Petitioner's variance request from Section 400.1 (1.1 B.C.Z.R. 2/1955) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (covered deck) in the side yard in lieu of the required rear yard is hereby GRANTED.

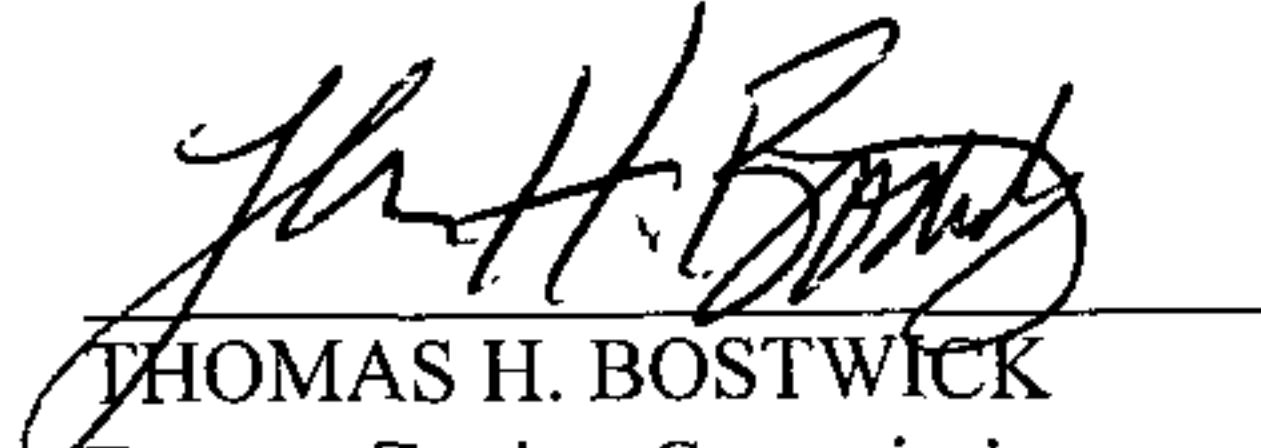
1. Petitioner is also advised that he may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

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10-30-07

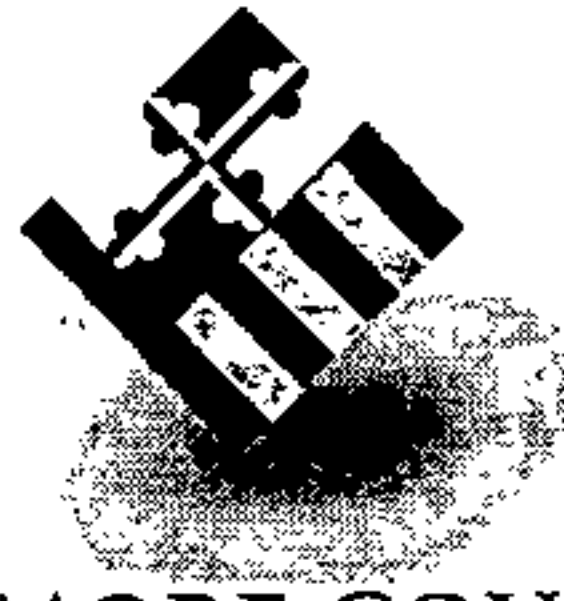


Any appeal of this decision must be made within thirty (30) days of the date of this Order.


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

ORDER RECEIVED FOR FILING
10-30-07
PB



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

October 30, 2007

GENE H. AND SHARON D. SMITH
4438 FENOR ROAD
BALTIMORE MD 21227

Re: Petition for Variance
Case No. 08-091-A
Property: 4438 Fenor Road

Dear Mr. and Mrs. Smith:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Th. H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

To whom it MAY CONCERN

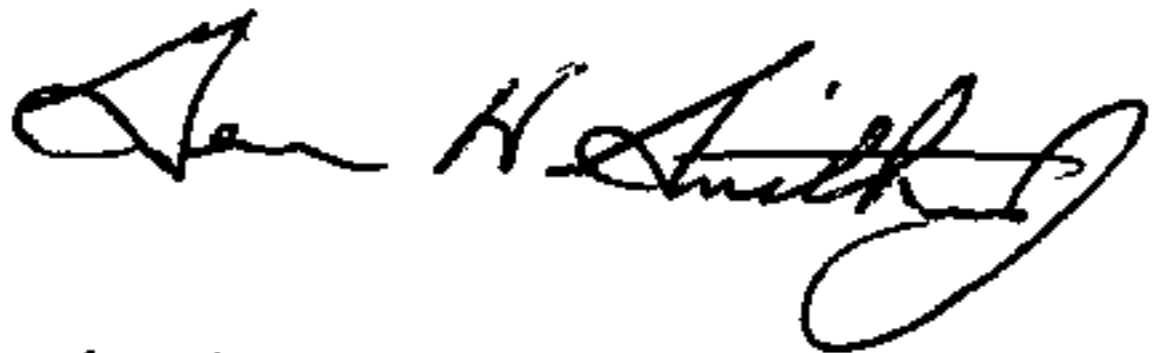
MY Name is Gene H. Smith I Reside
AT 4438 FENOR ROAD HALETHORPE MARYLAND
21227. ABOUT 6-7 YEARS AGO I ASKED
A BALTIMORE COUNTY POLICE OFFICER ABOUT
BUILDING IN MY YARD. HE TOLD ME IF
IT WAS OCCUPIED, ATTACHED TO THE HOUSE,
OR HAD A FOUNDATION I NEEDED PERMITS
OTHERWISE I SHOULD BE FINE. SO AT
THAT TIME WITH MY DAUGHTER GROWING
I STARTED ADAPTING MY HOUSE AND
YARD AROUND HER. SHE HAS CEREBAL
PALSEY, BOUND TO A WHEEL CHAIR. SHE
HAS LEFT SIDED WEAKNESS DUE TO A
STROKE WHICH TOOK WHOLE RIGHT SIDE
OF BRAIN, TOP PORTION OF BRAIN STEM,
AND THALMUS WHICH CONTROLS BODY TEMPERATURE.

THE POOL DECK I BUILT WITH WHEEL CHAIR
RAMP AND LIFT TO LET HER GO SWIMMING
AND THE DECK I BUILT WITH ROOF
SO SHE CAN BE OUTSIDE WITH US
IN SHADE WITH FANS TO KEEP HER
COOL INSTEAD OF BEING INSIDE ALL THE
TIME

THE EXISTING LOCATION OF THE POOL
AND POOL DECK AND SHED IN REAR YARD
MAKE THE SIDE YARD THE ONLY
REASONABLE AREA LEFT TO CONSTRUCT THE
DECK FOR MY DAUGHTER. DOCUMENTATION
FROM HER PEDIATRICIAN AND NEUROLOGIST
ON HER CONDITION IS ATTACHED.

ANY ASSISTANCE IN THIS MATTER
IS GREATLY APPRECIATED. I APOLOGISE
FOR ANYTHING DONE WRONG AND WILL
CALL AND RESEARCH ANYTHING I DO
FROM NOW ON.

THANK YOU
GENE H SMITH


4438 FENOR ROAD
HALETHORPE MD
21227

Home 410 609-0720
Cell 443 857-6849

Zoning Description

4438 Fenor Road

This zoning description is for the address being 4438 Fenor Rd. Balt. Md. 21227. Beginning at a point of the west side of Fenor Rd. which is sixty foot wide at the distance of four hundred feet south of the center line of the nearest improved intersecting street named Virginia Avenue which is sixty foot wide. Being lot number 17 block C Section 2 in the subdivision of Friendship Gardens as recorded in the Baltimore County plat book G.L.B. Number 22 folio number 27 folio number 21 containing 6361.2 square feet also known as 4438 Fenor Rd. and is located in the 13th election district
1 Councilmanic district.

**NOTICE OF ZONING
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #08-091-A
4438 Fenor Road
W/side of Fenor Road, 400 feet south of centerline of Virginia Avenue
13th Election District
1st Councilmanic District
Legal Owner(s): Gene H. & Sharon D. Smith

Variance: to permit an accessory structure (deck) in the side yard in lieu of the required rear yard.

Hearing: Tuesday, October 9, 2007 at 9:00 a.m.
In Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3858.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/9/737 Sept. 18 149344

CERTIFICATE OF PUBLICATION

9/20, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/18, 2007.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkins

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: Case No.: 08-091-A

Petitioner/Developer: G. & S. SMITH

Date of Hearing/Closing: OCT. 9, 2007

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: **Christen Matthews**

Ladies and Gentlemen: This letter is to certify under the penalties of perjury that the necessary sign(s)
required by law were posted conspicuously on the property located at _____

4438 FENOR ROAD

The sign(s) were posted on _____

SEPT. 21, 2007

(Month, Day, Year)

Sincerely,

Garland E. Moore

(Signature of Sign Poster and Date)

GARLAND E. MOORE

(Printed Name)

3225 RYERSON CIRCLE

(Address)

BALTIMORE, MD. 21227

(City, State, Zip Code)

(410) 242-4263

(Telephone Number)

ZONING NOTICE

CASE # 08-091-A

**A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD**

ROOM 106, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVENUE
TOWSON, MD. 21204

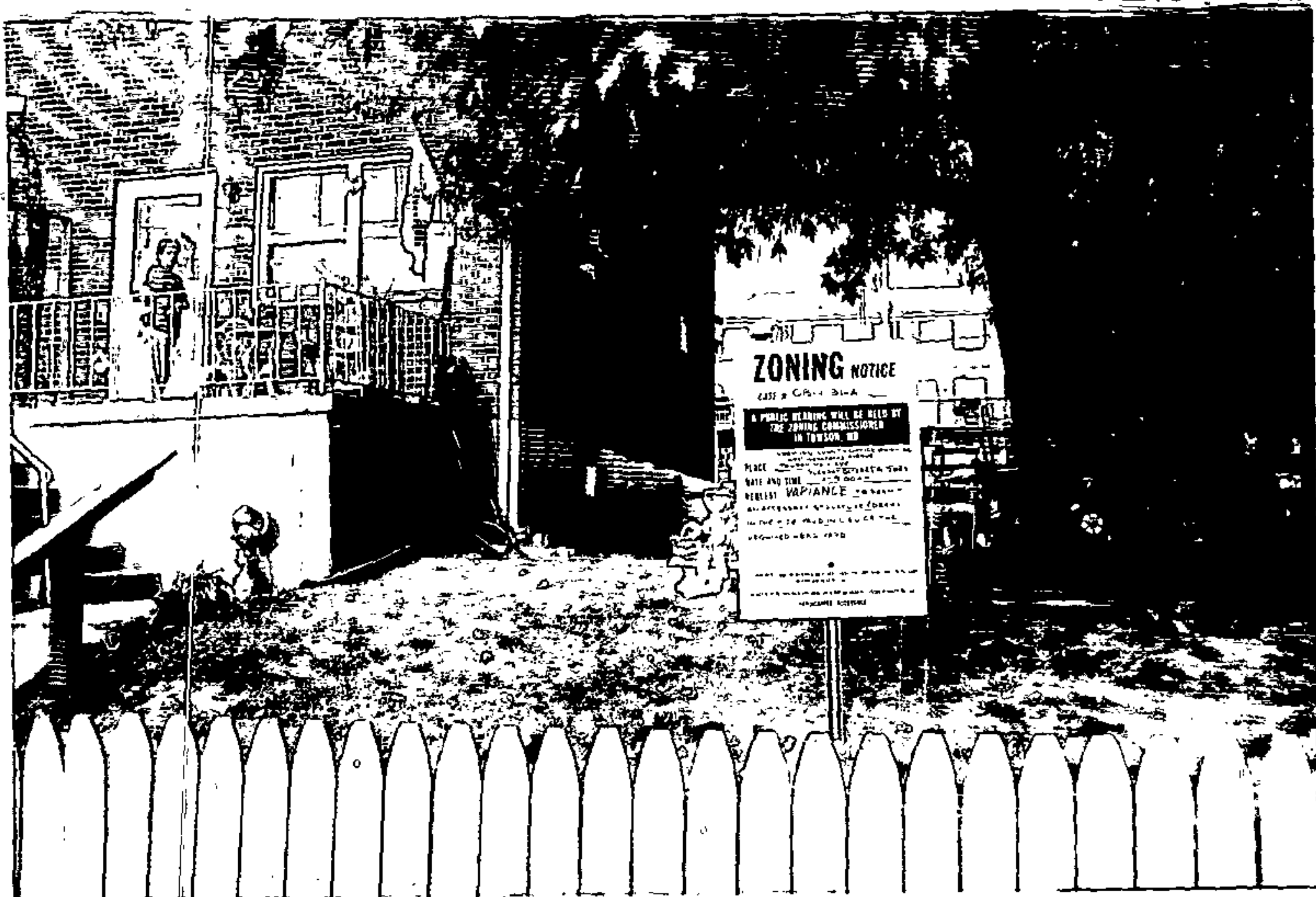
PLACE:

DATE AND TIME: TUESDAY, OCTOBER 9, 2007
AT 9:00 A.M.

REQUEST: VARIANCE TO PERMIT
AN ACCESSORY STRUCTURE (DECK)
IN THE SIDE YARD IN LIEU OF THE
REQUIRED REAR YARD

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW
HANDICAPPED ACCESSIBLE





BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

September 11, 2007
Timothy Kotroco, Director
Department of Permits and
Development Management

NOTICE OF ZONING HEARING

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CASE NUMBER: 08-091-A

4438 Fenor Road

W/side of Fenor Road, 400 feet south of centerline of Virginia Avenue

13th Election District – 1st Councilmanic District

Legal Owners: Gene H. & Sharon D. Smith

Variance to permit an accessory structure (deck) in the side yard in lieu of the required rear yard.

Hearing: Tuesday, October 9, 2007 at 9:00 a.m. in Room 106, County Office Building,
111 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Gene & Sharon Smith, 4438 Fenor Road, Baltimore 21227

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, SEPTEMBER 24, 2007**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, September 25, 2007 Issue - Jeffersonian

Please forward billing to:
Gene Smith
4438 Fenor Road
Baltimore, MD 21227

410-609-0720

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 08-091-A

4438 Fenor Road

W/side of Fenor Road, 400 feet south of centerline of Virginia Avenue

13th Election District – 1st Councilmanic District

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111 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 08-091-A

Petitioner: SMITH

Address or Location: 4438 FENOR RD.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MR. GENE SMITH

Address: 4438 FENOR RD.

BALTO. MD 21227

Telephone Number: 410-609-0720

Revised 7/11/05 - SCJ



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

October 2, 2007

Gene H. Smith
Sharon D. Smith
4438 Fenor Road
Baltimore, MD 21227

Dear Mr. and Mrs. Smith:

RE: Case Number: 08-091-A, 4438 Fenor Road

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on August 17, 2007. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel

RE: PETITION FOR VARIANCE
4438 Fenor Road; W/S Fenor Road,
400' S c/line Virginia Avenue
13th Election & 1st Councilmanic Districts
Legal Owner(s): Gene & Sharon Smith
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 08-091-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of September, 2007, a copy of the foregoing Entry of Appearance was mailed to, Gene & Sharon Smith, 4438 Fenor Road, Baltimore MD 21227, Petitioner(s).

RECEIVED

SEP 13 2007

Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: September 5, 2007

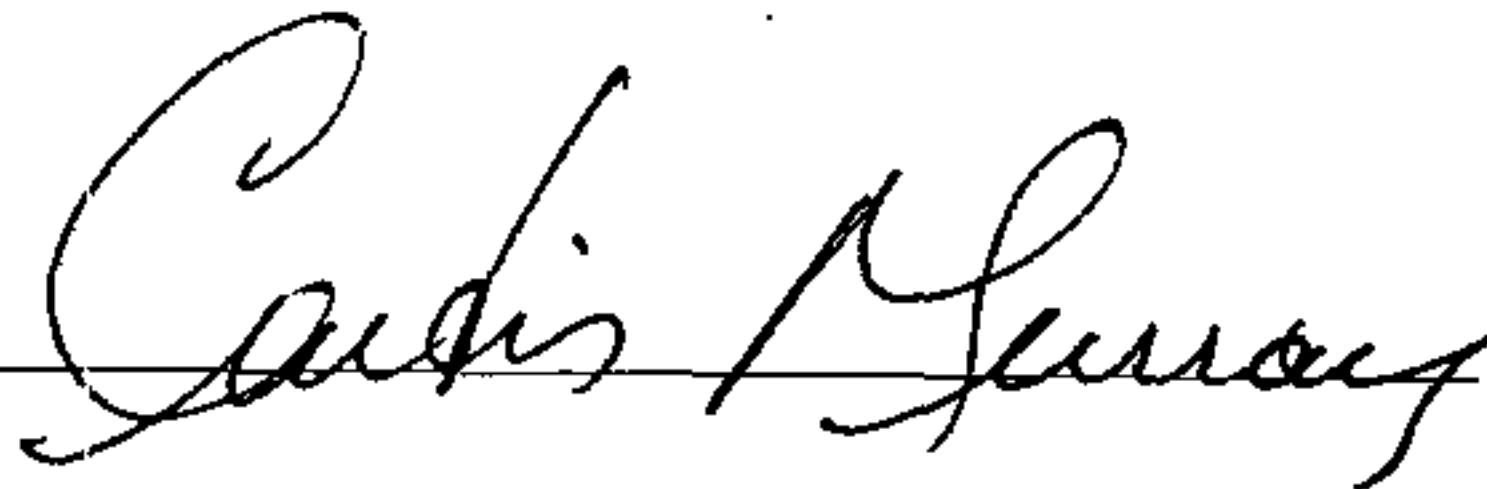
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-091- Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Dennis Wertz in the Office of Planning at 410-887-3480.

Prepared By:



Division Chief:



CM/LL

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

FROM: ^{DK} Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For September 3, 2007
Item Nos. 08-087, 089, 091, 092, 093,
094, 095, 096, 097, 098, 100, 101, and 104

DATE: September 4, 2007

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:~~CEN~~:clw

cc: File

ZAC-NO COMMENTS-08302007.doc

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



Maryland Department of Transportation

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Date: SEPT. 2, 2007

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 8-91-A
4438 FENOR ROAD
SMITH PROPERTY
VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 8-91-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

A handwritten signature in cursive script that reads "Michael Bailey".

For¹

Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

MODY & MILLER, M.D., P.A.

HARSHAD R. MODY, M.D.

SAMUEL B. MILLER, M.D.

NEUROLOGY

ELECTROMYOGRAPHY & EEG

PYRAMID PROFESSIONAL BUILDING
1406 S. CRAIN HIGHWAY, SUITE 200
GLEN BURNIE, MD 21061
PHONE: (410)760-5599

HARBOR HOSPITAL CENTER
3001 S. HANOVER STREET, GNM1
BALTIMORE, MD 21225
PHONE: (410)350-3261

RE: Smith, Lindsay N.

June 18, 2007

To whom it may concern,

Ms. Smith is being treated by me for cerebral palsy, seizures, and migraine. These conditions, as was the medication she is taking will cause sun sensitivity. This reason, the patient requires shade while being outside.

Sincerely yours,



Samuel B. Miller, M.D.

electronically signed 6/18/07 10:48 AM

DAEHOON (DENNIS) LEE, M.D.
F.A.A.P

1406 B South Crain Hwy
Suite 307
Glen Burnie, MD 21061
410-766-9099

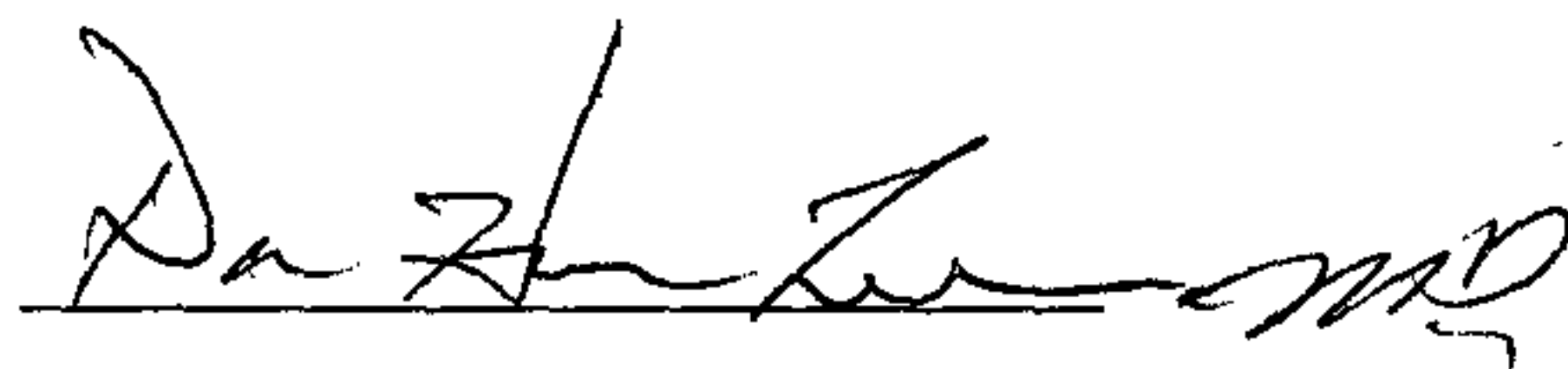
10313 Georgia Ave
Suite 210
Silver spring, MD 20902
301-592-0050

June 26, 2007

To Whom It May Concern:-

Lindsay Smith is a 14 year old with diagnosis of seizure disorder, cerebral palsy, mental retardation, left hemi paresis, left sided cranial nerve palsy, significant scoliosis, and thalamic ischemia. She is on medications daily to control her conditions which cause her to be photosensitive. Her thalamic ischemia leaves her with the inability to control her body temperature. It is beneficial for her not to be in direct sunlight and in a shaded area to prevent her from getting overheated. Lindsay is not ambulatory, which makes it difficult for mom to transport her.

DAEHOON LEE, M.D.

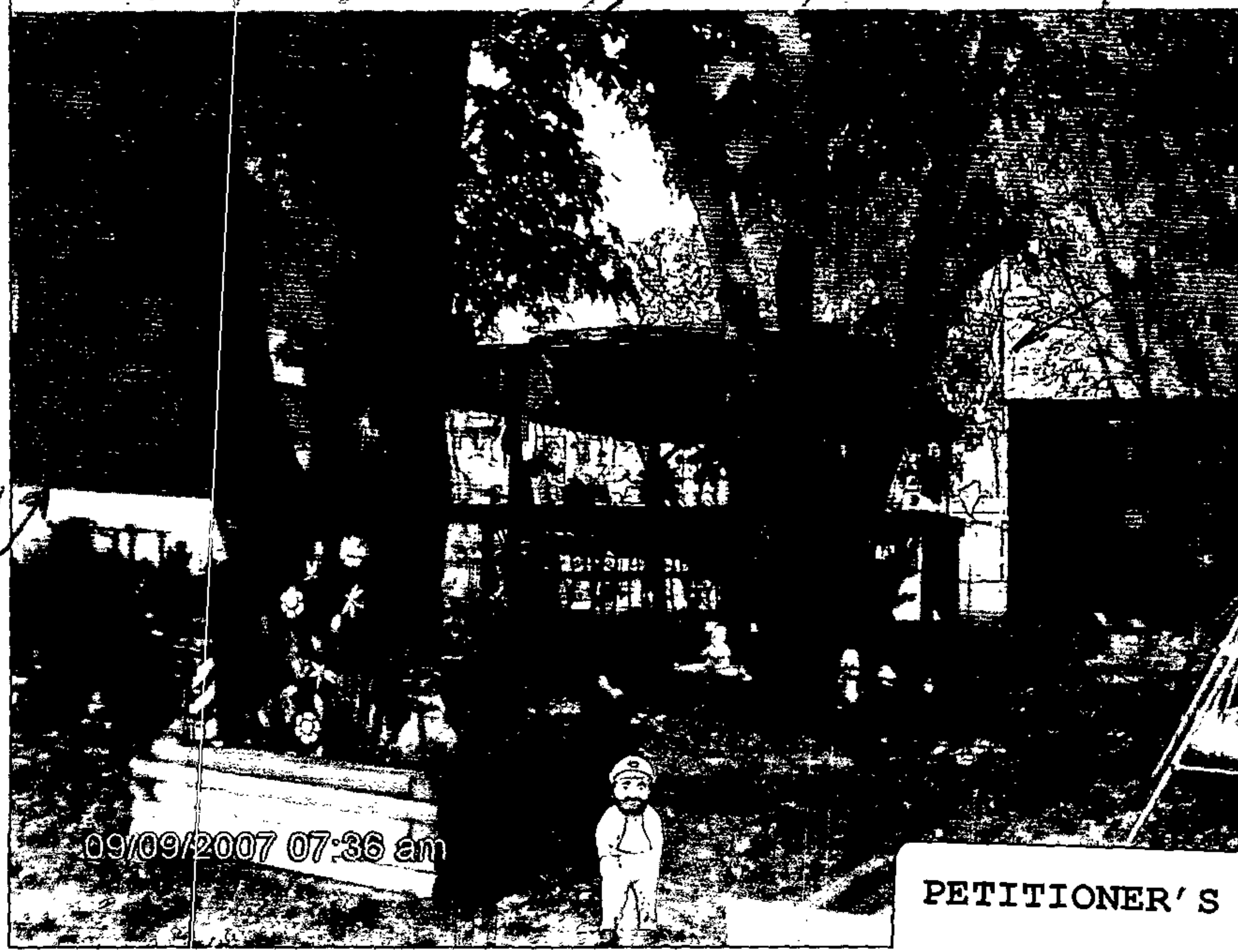


side YARD



09/09/2007 07:35 am

Front
side
Doelling



Deck
with
Roof

09/09/2007 07:36 am

PETITIONER'S
EXHIBIT NO. 5

DAEHOON (DENNIS) LEE, M.D.
F.A.A.P

1406 B South Crain Hwy
Suite 307
Glen Burnie, MD 21061
410-766-9099

10313 Georgia Ave
Suite 210
Silver spring, MD 20902
301-592-0050

June 26, 2007

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DAEHOON LEE, M.D.



PETITIONER' S

EXHIBIT NO. 6

MODY & MILLER, M.D., P.A.
HARSHAD R. MODY, M.D.
SAMUEL B. MILLER, M.D.
NEUROLOGY
ELECTROMYOGRAPHY & EEG

PYRAMID PROFESSIONAL BUILDING
1406 S. CRAIN HIGHWAY, SUITE 200
GLEN BURNIE, MD 21061
PHONE: (410)760-5599

HARBOR HOSPITAL CENTER
3001 S. HANOVER STREET, GNM1
BALTIMORE, MD 21225
PHONE: (410)350-3261

RE: **Smith, Lindsay N.**

June 18, 2007

To whom it may concern,

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Sincerely yours,



Samuel B. Miller, M.D.
electronically signed 6/18/07 10:48 AM

PETITIONER'S

EXHIBIT NO. 7

DATE _____

E-MAIL

[illegible]

To whom it MAY CONCERN

MY Name is Geneth Smith I Reside
AT 4438 FENOR ROAD HALETHORPE MARYLAND
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A BALTIMORE COUNTY POLICE OFFICER ABOUT
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THE POOL DECK I BUILT WITH WHEEL
RAMP AND LIFT TO LET HER GO SWIMMING
AND THE DECK I BUILT WITH ROOF
SO SHE CAN BE OUTSIDE WITH US
IN SHADE WITH FANS TO KEEP HER
COOL INSTEAD OF BEING INSIDE ALL THE
TIME

PETITIONER'S

EXHIBIT NO. 2

THE EXISTING LOCATION OF THE POOL
AND POOL DECK AND SHED IN REAR YARD
MAKE THE SIDE YARD THE ONLY
REASONABLE AREA LEFT TO CONSTRUCT THE
DECK FOR MY DAUGHTER. DOCUMENTATION
FROM HER PEDIATRICIAN AND NEUROLOGIST
ON HER CONDITION IS ATTACHED.

ANY ASSISTANCE IN THIS MATTER
IS GREATLY APPRECIATED. I APOLOGISE
FOR ANYTHING DONE WRONG AND WILL
CALL AND RESEARCH ANYTHING I DO
FROM NOW ON.

THANK YOU
GENE H SMITH

Gene H Smith
4438 FENOR ROAD
HALETHORPE MD
21227

Home 410 609-0720
Cell 443 857-6849

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

ACTIVE VIOLATION CASE DOCUMENTS

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: September 13, 2007

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 091
Legal Owner/Petitioner Smith, Gene & Sharon
Contract Purchaser: n/a
Property Address: 4438 Fenor Rd
Location Description: 400' S. Virginia Ave

VIOLATION INFORMATION: Case No. 07-7051
Defendants: Smith, Gene & Sharon

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME	ADDRESS
------	---------

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

- | | | |
|--------------------------|-----|---|
| X | 1. | Complaint letter/memo/email/fax (if applicable) |
| ☐ | 2. | Complaint Intake Form/Code Enforcement Officer's report and notes |
| X | 3. | State Tax Assessment printout |
| ☐ | 4. | State Tax Parcel Map (if applicable) |
| ☐ | 5. | MVA Registration printout (if applicable) |
| ☐ | 6. | Deed (if applicable) |
| ☐ | 7. | Lease-Residential or Commercial (if applicable) |
| X | 8. | Photographs including dates taken |
| X | 9. | Correction Notice/Code Violation Notice |
| ☐ | 10. | Citation and Proof of Service (if applicable) |
| ☐ | 11. | Certified Mail Receipt (if applicable) |
| ☐ | 12. | Final Order of the Code Official/Hearing Officer (if applicable) |
| ☐ | 13. | Office of Budget & Finance Billing Notice/Property Lien Sheet (if applicable) |
| X | 14. | Complete Chronology of Events, beginning with the first complaint through the Billing Notice/Property Lien Sheet (if applicable). |

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/jg
C: Code Enforcement Officer

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

CASE #
07-7051

DATE: April 13, 2000

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 091
Legal Owner/Petitioner: GENE H. & SHARON D. SMITH
Contract Purchaser: -
Property Address: 4438 FENOR RD.
Location Description: 400' S. VIRGINIA AVE

VIOLATION INFORMATION: Case No. 8-91-A
Defendants: SHARON/GENE SMITH

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following person(s) regarding the hearing date:

NAME	ADDRESS
Tim Garland	
Ext. 3953	

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

- ☒ 1. Complaint letter/memo/email/fax (if applicable)
- ☐ 2. Complaint Intake Form/Code Enforcement Officer's report and notes
- ☒ 3. State Tax Assessment printout
- ☐ 4. State Tax Parcel Map (if applicable)
- ☐ 5. MVA Registration printout (if applicable)
- ☐ 6. Deed (if applicable)
- ☐ 7. Lease-Residential or Commercial (if applicable)
- ☒ 8. Photographs including dates taken
- ☒ 9. Correction Notice/Code Violation Notice
- ☐ 10. Citation and Proof of Service (if applicable)
- ☐ 11. Certified Mail Receipt(s) if applicable
- ☐ 12. Final Order of the Code Official/Hearing Officer (if applicable)
- ☐ 13. Office of Budget & Finance Billing Notice/Property Lien Sheet (if applicable)
- ☒ 14. Complete Chronology of Events, beginning with the first complaint through the Billing Notice/Property Lien Sheet (if applicable).

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Helene Kehring in Room 113 in order that the appropriate action may be taken relative to the violation case.

RSW/
C: Code Enforcement Officer

ZAC AGENDA

Number: 091

Case Number: 8-91-A

Primary Use: Residential

Reviewer: DT

Type: Variance

Legal Owner: Gene H. and Sharon D. Smith

Contract Purchaser:

Critical Area: No Flood Plain: No Historic: No Election Dist: 13th Councilmanic Dist: 1st

Property Address: 4438 Fenor Road

Location: West side Fenor Road, 400 feet south of centerline Virginia Avenue.

Existing Zoning: DR - 10.5

Area: 6361 square feet +/-

Proposed Zoning: VARIANCE To permit an accessory structure (deck) in the side yard in lieu of the required rear yard.

07-7051
Garland

Attorney:

Miscellaneous: Violation

Item Number: 092

Case Number: 8-92-A

Primary Use: Residential

Reviewer: JNP

Type: Administrative Variance

Legal Owner: Lawrence J. Rego

Contract Purchaser:

Critical Area: No Flood Plain: Yes Historic: No Election Dist: 11th Councilmanic Dist: 5th

Property Address: 9126 Snyder Lane

Location: Northwest side of Snyder Lane, 61 feet southwest of Sandra Park Road.

Existing Zoning: DR - 5.5

Area: 0.808 acres +/-

Proposed Zoning: ADMINISTRATIVE VARIANCE To permit a four foot front yard setback in lieu of the front yard averaging setback of 26 feet and to allow an existing accessory structure (garage) to remain partially in the side yard in lieu of the requirement to be only in the rear yard; and to allow the existing twenty (20) foot high accessory structure (garage) to remain, exceeding the fifteen (15) foot maximum height requirement.

Attorney: Deborah C. Dopkin, P.A.

Miscellaneous:

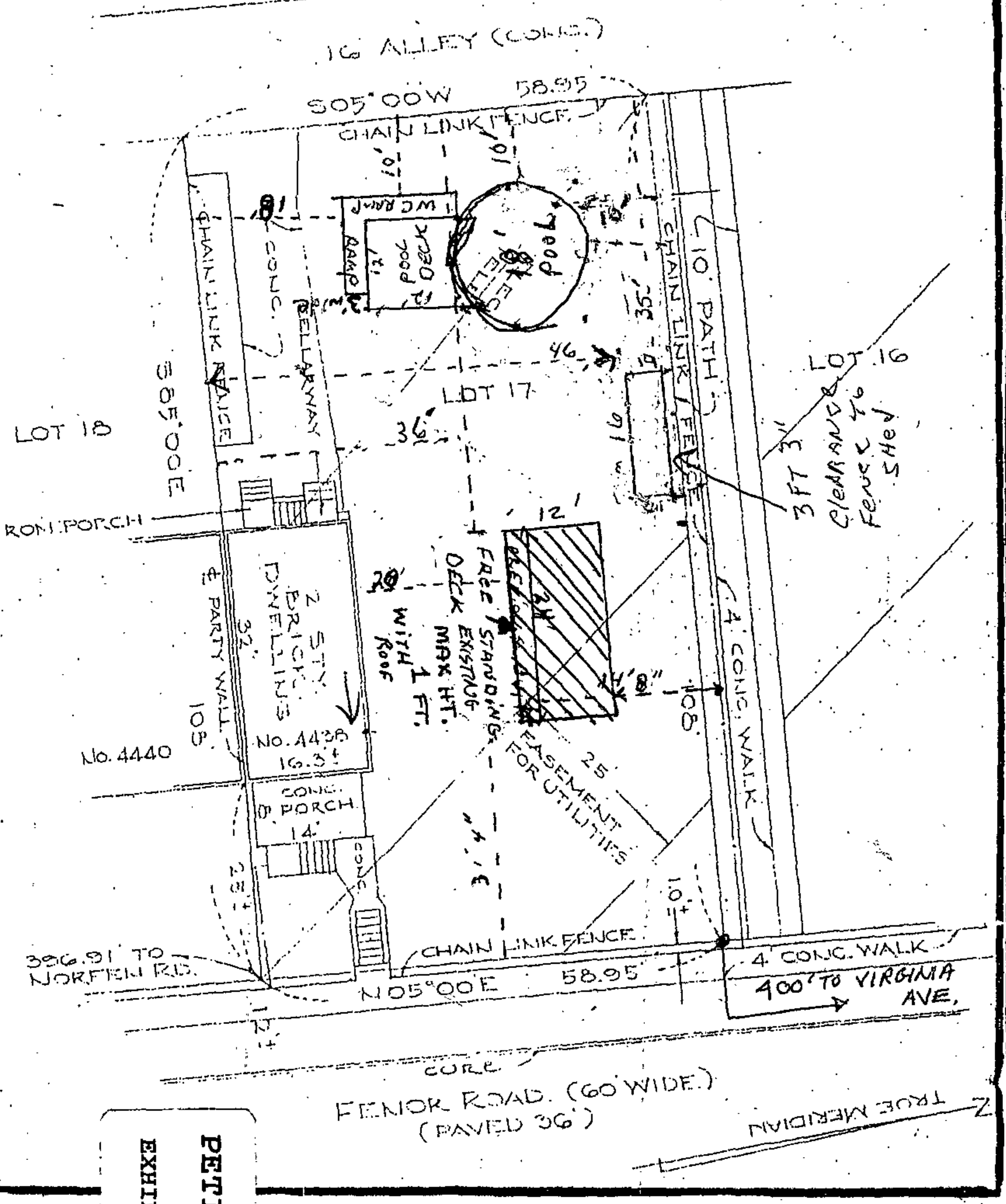


PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

PROPERTY ADDRESS 4438 Fenor Rd

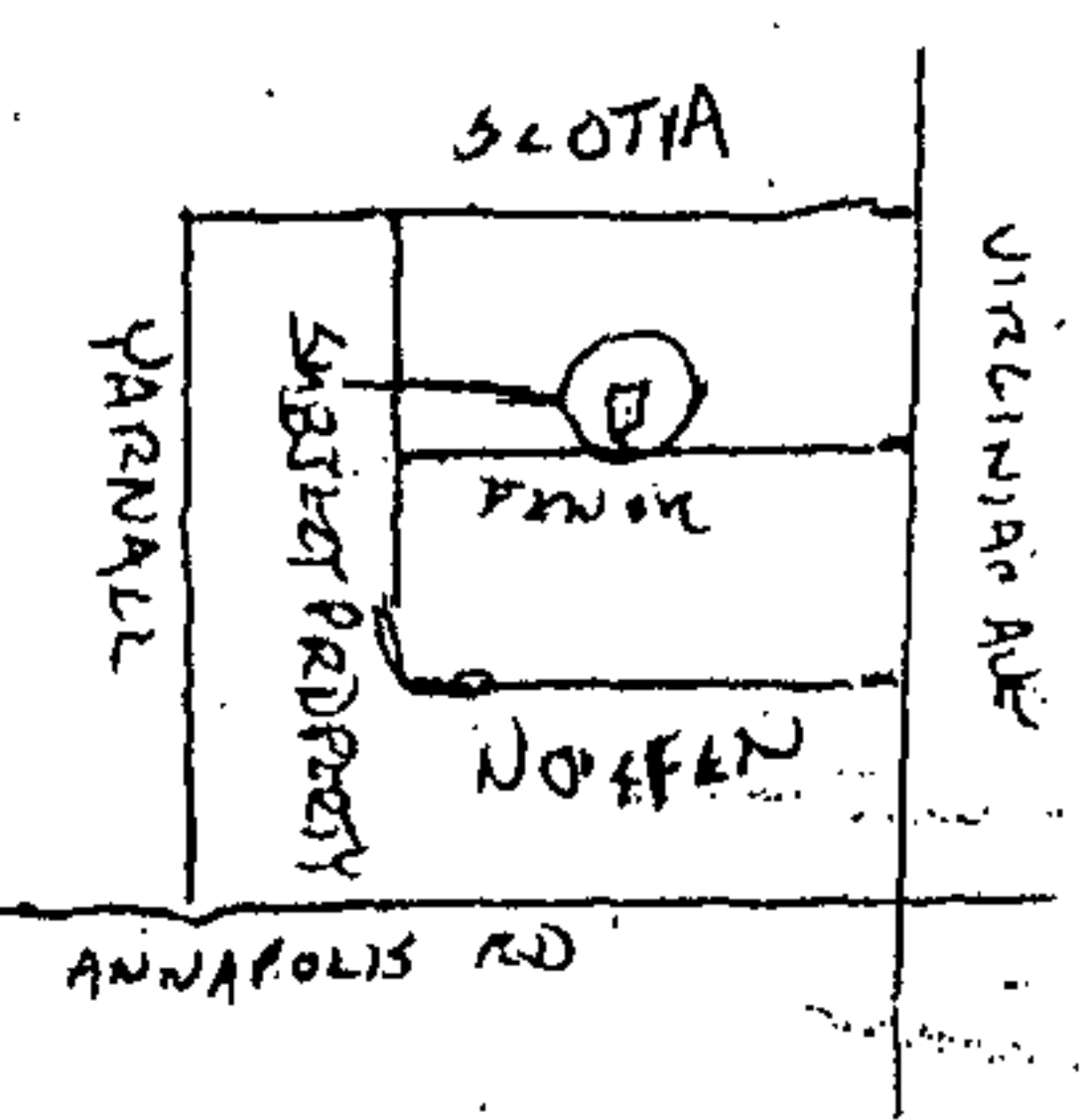
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Friendship Gardens
 PLAT BOOK 31 LOT # 17 SECTION # 2
 OWNER Gene Smith Sharon Smith



PETITIONER'S
EXHIBIT NO. 1

1" = 30'



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT 1

1" = 200' SCALE MAP #

ZONING DR 10.5

LOT SIZE 0.146

ACREAGE 1.361

SQUARE FEET 5892

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒ YES ☐ NO

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ YES ☒ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

D.T. 091 08-091-A

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDLV0001

Dt Rec: 6072007 Intake: PROFILI, C Act: Case #: 07-7051
Insp: GARLAND, J. Insp Grp: ENF Insp Area: 17 Tax Acct: 1319511160
Address: 4438 FENOR RD Apt #: Zip: 21227
Owner: GENE, JR SMITH & SHARON SMITH -4438 FENOR RD 443-857-6849

Problem Descript.: SHED WITH ELECTRIC & GAZEBO & POOL DECK, ALL BUILT WITHOUT
PERMIT'S

Complainant Name (Last): E-MAIL (First):
Complainant Addr:
Complainant City: State: Zip:
Complainant Phone (H): (W):
Date of Reinspection: 9292007 Date Closed: Delete Code (P):

F3=Exit

F9=Insert

F5=Refresh

F10=Entry

F6=Select format

F11=Change

Case Entry/Update

Format . . . : CASREC

Mode . . . : CHANGE

File . . . : PDLV0001

Notes: 07-7051 6/11/07 ON SITE INSP. VERIFIED APPROX 12X24' PAVILON, 12/16' DECK ATTACHED TO ABOVE GROUND POOL, 10X16X12' ACCESSORY BLDG AND A 6' HIGH FENCE IN FRONT, SIDE YARD. ELECTRICAL PERMITS REQUIRED ALSO. SPOKE W/MR. SMITH & EXPLAINED ALL THE ABOVE REQUIRE PERMITS. MUST FILE W/IN 10 DAYS. ANONY. COMPLAINT VIA E-MAIL. P/U 6/21/07 J. GARLAND/NS***

6/18/07 SPOKE W/MR. SMITH. STATES HE HAS 16' FROM CENTER OF ALLEY TO POOL/DECK. ALSO AGREES MUST RELOCATE SHED 18" TO CONFORM TO MIN. 3' SETBACK. WILL FILE VARIANCE APPLICATION BEFORE 6/22/07 FOR PAVILON & 6' FENCE FRONT YARD. 6/26/07 ON SITE

SHED HAS BEEN MOVED 3' FROM PROPERTY LINE. DECK PERMIT OBTAINED FOR POOL ATTACHED DECK. VARIANCE HAS BEEN FILED & SIGN POSTED FOR 6' FENCE IN FRONT OF DWELLING. OWNER STATES WILL FILE FOR VARIANCE FOR PAVILON IN SIDE YARD W/IN SEVERAL DAYS. O.K. P/U 6/29/07 J. GARLAND/NS***

6/27/07 M/W MR. SMITH AT SITE. VERIFIED SHED RELOCATED TO CONFORM TO 3' SETBACK. VAR. APPLICATION FILED & POSTED FOR 6' FENCE FRONT OF DWELLING. PERMIT OBTAINED FOR REAR DECK ATTACHED TO POOL W/RAMP. B667289. MR. SMITH STATES APPOINTMENT SCHEDULED W/ZONING TO FILE FOR VAR. FOR SIDE YARD LOCATION OF PAVILON. P/U 7/17/07 J. GARLAND/NS***

(NEXT PAGE) >>>>

F3=Exit

F5=Refresh

F6=Select format

F9=Insert

F10=Entry

F11=Change

Case Entry/Update

Format : CASREC

Mode : CHANGE

File : PDLV0001

Notes 2: 07-7051 7/18/07 SPOKE W/MR.SMITH. STATES PERMIT OBTAINED FOR FENCE B66
9579. VARIANCE HEARING DATE SCHEDULED FOR 7/27/07. ELECTRICIAN PROCESS OF OBTAIN
ING PERMIT. P/U 7/31/07 J.GARLAND/NS***

8/2/07 SPOKE W/MR.SMITH. ELECTRICAL PERMIT OBTAINED E671350 STATES HE NEEDS TO
RE-SUBMIT PAPERWORK BEFORE VARIANCE HEARING DATE IS SCHEDULED. OK. P/U 8/20/07
J.GARLAND/NS*** 8/21/07 APPLICATION FOR VARIANCE HAS BEEN ACCEPTED FOR DECK &
ELECTRICAL INSP. IS FOLLOWING-UP ON CODE REQUIREMENTS. O.K. P/U 9/29/07 J.GARLAN
D/NS***

F3=Exit

F9=Insert

F5=Refresh

F10=Entry

F6=Select format

F11=Change

PDM Enforce - Web-Code Enforcement Complaint

From: <webform@baltimorecountymd.gov>
To: <pdrnenforce@baltimorecountymd.gov>
Date: 06/06/07 9:46 AM
Subject: Web-Code Enforcement Complaint

Complaint Location: 4438 FENOR ROAD

Complaint Location Zip Code: 21227

Description of Problem: THEY BUILT A SHED WITH ELECTRICITY, A GAZEBO AND A DECK AROUND THE POOL. ALL OF THIS WAS DONE WITHOUT A PERMIT.

Email:

Name:

Address:

Zip Code:

Home Phone Number:

Work Phone Number:

Additional Information:

REAR YARD



REAR
Dwelling
✓

Front
Dwelling
→

Deck
with
Roof

Front Fence

DATE: 06/06/2007

STANDARD ASSESSMENT INQUIRY

TIME: 13:29:06

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
13 19 511160	13	1-0	04-00	H	NO		04/18/07
SMITH SHARON D				DESC-1.. IMPS			
SMITH GENE, JR				DESC-2.. FRIENDSHIP GARDENS			
4438 FENOR RD				PREMISE. 04438 FENOR		RD	
							00000-0000

BALTIMORE

MD 21227-4804 FORMER OWNER: SMITH SHARON D

FCV			PHASED IN		
PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	22,500	50,000	FCV	ASSESS	ASSESS
IMPV:	61,500	100,280	TOTAL..	106,093	84,000
TOTL:	84,000	150,280	PREF...	0	0
PREF:	0	0	CURT...	106,093	84,000
CURT:	84,000	150,280	EXEMPT.	0	0
DATE:	07/03	08/06			

TAXABLE BASIS		FM DATE
ASSESS:	106,093	11/15/06
ASSESS:	84,000	
ASSESS:	0	

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF

RA1001C

DATE: 06/06/2007

STANDARD ASSESSMENT INQUIRY (2)

TIME: 13:29:15

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
13 19 511160	13	1-0	04-00	H	NO		04/18/07
LOT...	17	BOOK...	0022	MAP....	0109	LOT WIDTH.....	58.95
BLOCK..	C	FOLIO...	0021	GRID....	0016	LOT DEPTH.....	100.00
SECTION..	2			PARCEL..	0370	LAND AREA...	6264.000 S
PLAT..						YEAR BUILT.....	58

TRANSFER DATA	
NUMBER.....	342275
DATE.....	07/12/06
PURCHASE PRICE.....	0
GROUND RENT.....	0
DEED REF LIBER.....	24149
DEED REF FOLIO.....	0003
CONVEYED IND.....	9
TOT-PART TRAN IND.....	T
GRANTOR ACCT NO..	13-19-511160

EXEMPT DATA	
STATUS.....	
CLASS CODE.....	000
STATE EXEMPT CODE.....	000
COUNTY EXEMPT CODE.....	000
CURR STATE EX ASMT....	0
PRIOR STATE EX ASMT...	0
CURR COUNTY EX ASMT...	0
PRIOR COUNTY EX ASMT..	0

CRITICAL NEW CONST CARD	
AREAS CODE	YEAR
	NO
	01322

STRUCTURE	
CODE	SQ. FEET
	1024

ENTER-INQUIRY3 PA1-PRINT PF2-INQUIRY1 PF4-MENU PF5-QUIT PF7-CROSS REF



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, MD 21204

Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 07-7051	Property No. 1319511160	Zoning:
------------------------------	----------------------------	---------

Name(s): FENE SMITH JR. SHARON SMITH
--

Address: 4438 FENOR Rd.

Violation Location: 4438 FENOR Rd.

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

I.R.C. 2003

SEC. 105.1

MUST FILE FOR PERMITS TO CONSTRUCT

APPROX 12' x 24' pavilion, 12' x 16'

Deck attached to above ground

pool, 10' x 16' x 12' Accessory Bldg.

6' High Fence in front, side

yard - Electrical permits Required

Must file within days -

500.00/00 issued - will

waive fine if permits filed

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before: 6-11-07	Date Issued: 6-21-07
--------------------------	-------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name JAMES GARLAND

INSPECTOR:

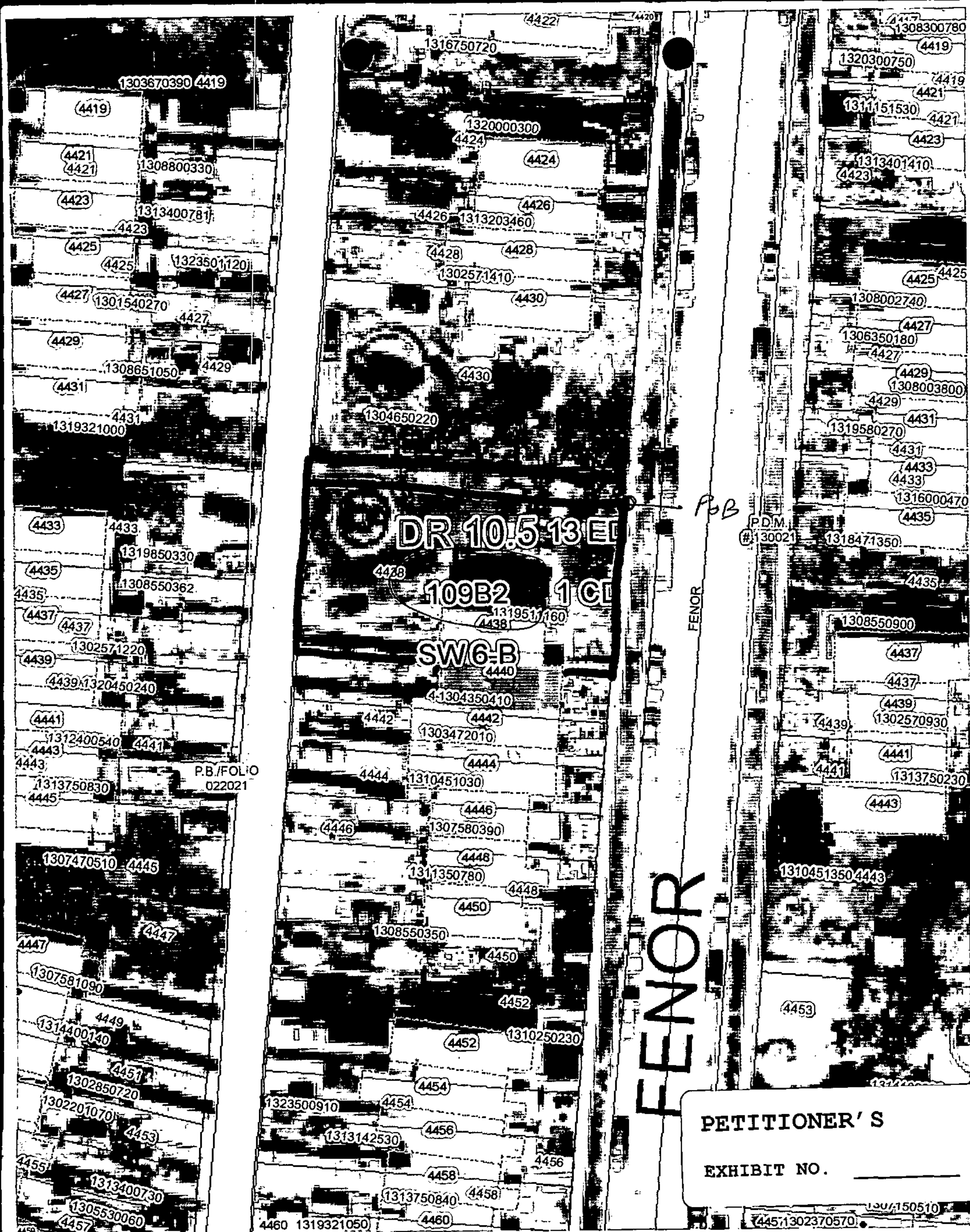
STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

On or Before:	Date Issued:
---------------	--------------

INSPECTOR:

DEFENDANT



☐ SPECIAL HEARING

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

OWNER Gene Smith Sharon Smith



LOCATION INFORMATION

109601

LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT 1

1" = 200' SCALE MAP #

ZONING DR 10.5

LOT SIZE 0.146 ACRES 1.3612 SQUARE FEET

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒ ☐

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ YES ☒ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARING NONE

ZONING OFFICE USE ONLY

REVIEWED BY ITEM # CASE #

D.T.	091	08-091-A
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PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

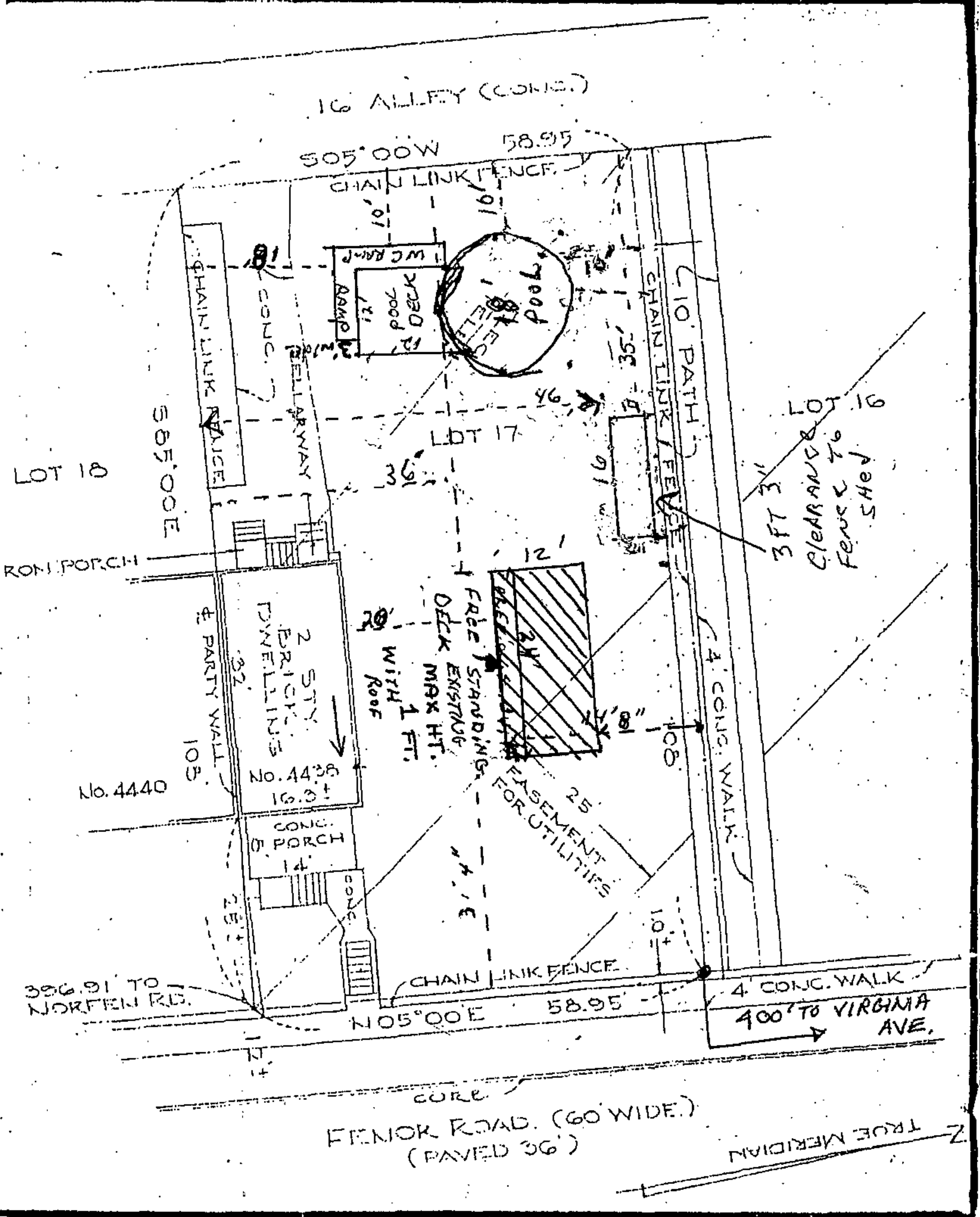
PROPERTY ADDRESS 4438 Fenor Rd

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

SUBDIVISION NAME Friendship Gardens

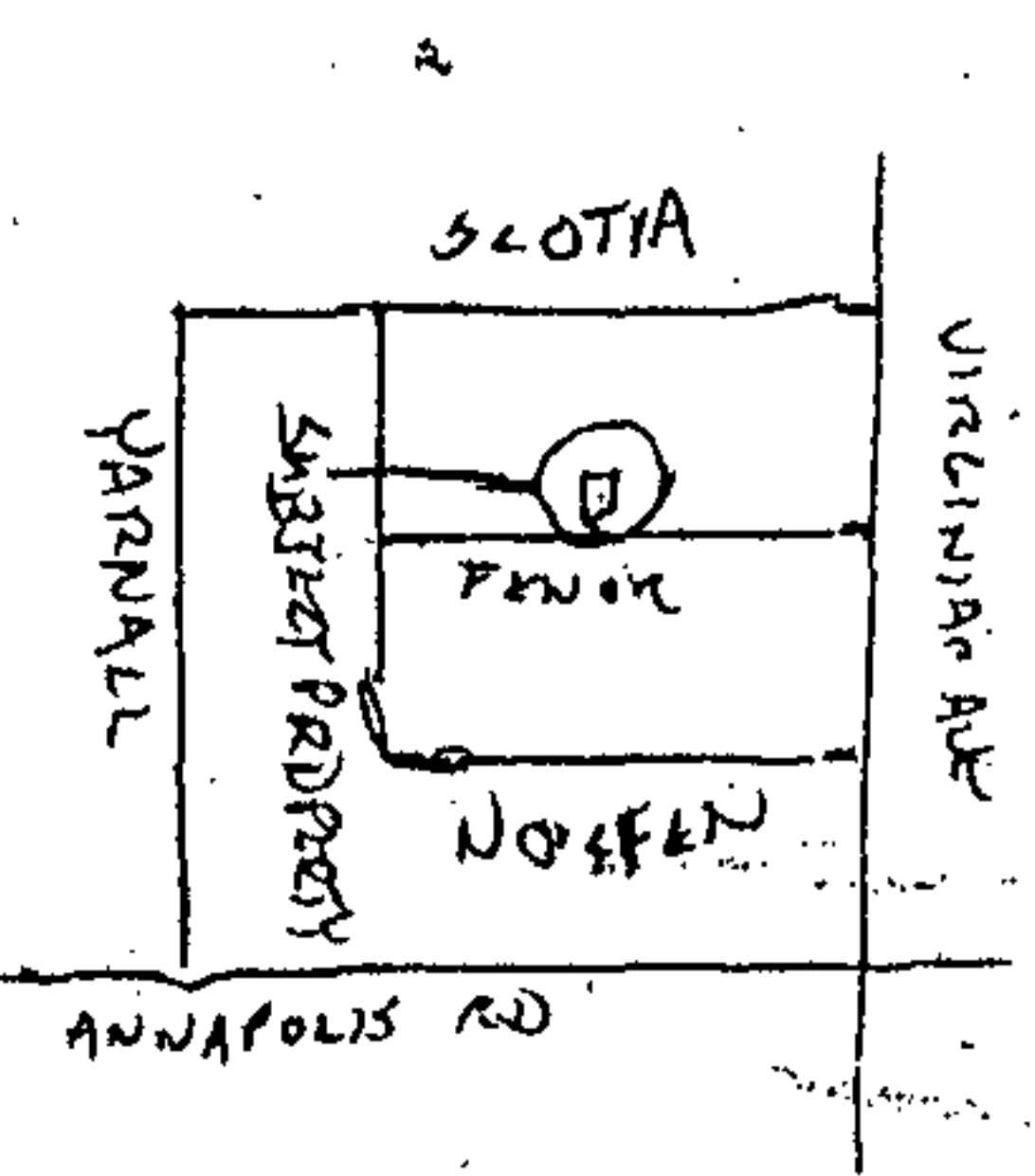
PLAT BOOK 31 LOT # 17 SECTION # 2

OWNER Gene Smith Sharon Smith



1" = 20'

(12)



VICINITY MAP
SCALE: 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 13

COUNCILMANIC DISTRICT 1

1" = 200' SCALE MAP #

ZONING DR 10.5

LOT SIZE 0.146 1.361 2

ACREAGE 0.146 SQUARE FEET

SEWER ☒ PUBLIC ☐ PRIVATE

WATER ☒ YES ☐ NO

CHESAPEAKE BAY CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ YES ☒ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARING None

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

D.T. 091 08-091-A

10982