### MEMORANDUM

DATE:

January 8, 2019

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2019-0154-A - Appeal Period Expired

The appeal period for the above-referenced case expired on January 7, 2019. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: Case File

Office of Administrative Hearings

/dlw

IN RE: PETITION FOR ADMIN. VARIANCE (9017 Erimike Court)

BEFORE THE

2<sup>nd</sup> Election District

OFFICE OF ADMINISTRATIVE

4th Council District

**HEARINGS FOR** 

James M. Smith, Jr. & James Smith, Sr. et al \* Petitioners

BALTIMORE COUNTY

CASE NO. 2019-0154-A

\* \* \* \* \* \* \*

### **OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings ("OAH") for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, James M. Smith, Jr. and James M. Smith, Sr., et al ("Petitioners"). The Petitioners are requesting Variance relief pursuant to § 1A04.3.B.2.b of the Baltimore County Zoning Regulations ("BCZR"), to permit an addition with a side yard setback of 25' in lieu of the required 50', and to amend the Final Development Plan ("FDP") of Misteric Meadow for Lot 1 only. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee ("ZAC") comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 17, 2018, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code ("BCC"). Based upon the information available, there is no evidence in

ORDER	RECEIVED FOR FILING
Date	2-7-18
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the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 7th day of **December**, 2018, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 1A04.3.B.2.b of the Baltimore County Zoning Regulations ("BCZR"), to permit an addition with a side yard setback of 25' in lieu of the required 50', and to amend the Final Development Plan ("FDP") of Misteric Meadow for Lot 1 only, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

 Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

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

JOHN E. BEVERUNGEN Administrative Law Judge for Baltimore County

JEB:dlw

ORDER RECEIVED FOR FILING

Date

| 2-4-18

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## DMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE - OR - ADMINISTRATIVE SPECIAL HEARING

To be filed with the Department of Permits, Approvals and Inspections To the Office of Administrative Hearings for Baltimore County for the property located at: Address 9017 ERIMIKE Currently zoned 10 Digit Tax Account # 2 Deed Reference lames m. Owner(s) Printed Name(s) (SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST) For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized. The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an: 1. ADMINISTRATIVE VARIANCE from Section(s) 1204.3.6.2.6 BCZR To permit an addition with a side yard setback of 25' in lieu of the required 50'. And to amend the FDP of Misteric Meadow for Lot I only of the zoning regulations of Baltimore County, to the zoning law of Baltimore County. ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building) of the Baltimore County Code, to the development law of Baltimore County. Property is to be posted and advertised as prescribed by the zoning regulations. I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County. Owner(s)/Petitioner(s): James M Smits Name #1 - Type or Print mex M. Signature #1 Mailing Address Representative to be contacted: Attorney for Owner(s)/Petitioner(s): Name - Type or Print Name-Type or Print Signature State Mailing Address City State Mailing Address Zip Code Telephone # **Email Address** Zip Code Telephone # **Email Address** A PUBLIC HEARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County. Administrative Law Judge for Baltimore County

CASE NUMBER 2019 - 0154 - Filing Date 11 171 14 Estimated Posting Date

Rev 5/5/2016

## **Affidavit in Support of Administrative Variance**

My Commission Expires July 30, 2019

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 9017 Erimike Cf. Print or Type Address of property	Randallstown	M D State	2/133 Zip Code
Based upon personal knowledge, the follow Administrative Variance at the above address	ss. (Clearly state <u>prac</u>	which I/we base the tical difficulty or h	request for an ardship here)
See attachment	<i>t</i> :		
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	<del> </del>	<del></del>	
	<del></del>	······	
(If additional space for the petition request or	the above statement is no	eeded, label and attacl	h it to this Form)
Signature of Owner (Affiant)	Own Signature	nla M Smoth	Sh.
James M., Smith JR Name-Print or Type	Jan	nes im. Smith intor Type	s.
The following information is to be o	completed by a Notary Pu	blic of the State of Ma	ryland
STATE OF MARYLAND, COUNTY OF BAI	LTIMORE, to wit:		
I HEREBY CERTIFY, this 5 day of and for the County aforesaid, personally appear	Movember, 2018 red:	_, before me a Notar	y of Maryland, in
Print name(s) here: James M. Smith, Je	. JAMES M. S	Smith Se.	
the Affiant(s) herein, personally known or satisfa	actorily identified to me as	s such Affiant(s).	
AS WITNESS my hand and Notaries Seal	By By	2	
NOTARY PUBLIC	ry Public 30 2019		
BALTIMORE COUNTY My C MARYLAND	Commission Expires	2.	

REV. 5/5/2016

### Attachment

Property is Lot #1 which is 1.5 acers located at 9017 Erimike Court in the Misteric Meadows

Development. The configuration of the existing lot will not support an additional garage structure in any other portion of the property due to Septic drainage fields. The existing property only has a two bay garage. The owner has several Classic autos that need to be enclosed. Other properties in the Misteric Meadows development have three and four bay garages.

Owner has three vehicles for transportation, two additional Classic vehicles and two motorcycles that need to be enclosed. Aesthetics of development is most important, having the vehicles enclosed would be best. The owner has recently married and moving from a four bay garage in the same area.

Finding a secondary location for the classic vehicles would be a hardship on the owner. No increase in the residential density beyond that allowed by the BCZRS will be increased. All existing residents have been surveyed and are in agreement with this request. Relief requested will be in strict harmony with the spirt of height, area, parking and sign regulations. No impact on public health, safety, and general welfare will take place.

Commission of the second secon

# **The Zoning Petition Property Description**

Part A				
	~	7 Erimike Drive *Beginn		
south side of Erimike (	Court which is	40 feet at a distance of _	235_	_ feet east of
the centerline of the ne	earest improved	l intersecting street of O	ffutt Roa	d which is
60 feet wide.	•			
			•	
Part B Option				
Being Lot 1_Block	Section	in the Subdivision of	f Misteric	: Meadows
as recorded in Baltimo	ore County Plat	Book #078, Folio #377,	, containi	ng #1.5000
acres. Located in the 2	nd Election Dis	trict and 4 <sup>th</sup> Council Dis	trict.	

# **CERTIFICATE OF POSTING**

**ATTENTION: KRISTEN LEWIS** 

**DATE:** 11/17/2018

Case Number: 2019-0154-A

Petitioner / Developer: JAMES SMITH Date of Closing: DECEMBER 3, 2018

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 9017 ERIMIKE COURT

The sign(s) were posted on: NOVEMBER 17, 2018



Linda O Keefe (Signature of Sign Poster)

Linda O'Keefe (Printed Name of Sign Poster)

(Little diame of 2180 Lostel)

523 Penny Lane (Street Address of Sign Poster)

Hunt Valley, Maryland 21030 (City, State, Zip of Sign Poster)

410 - 666 - 5366 (Telephone Number of Sign Poster)



1st Sign posted @ 9017 Erimike Court - 11/17/2018



2<sup>nd</sup> Sign posted @ 9017 Erimike Court – 11/17/2018 Case # 2019 – 0154-A

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES
Case Number 2019- 0/54 -A Address 90/7 ERIMIKE ST
Contact Person: Jun Fernanda Phone Number: 410-887-3391 Planner, Please Print Your Name
Filing Date: 11/7/18 Posting Date: 11/18/18 Closing Date: 12/03/18
Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.
1. POSTING/COST: The petitioner must use one of the sign posters on the approved list and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. <u>DEADLINE:</u> The closing date is the deadline for a neighbor (occupant or owner) within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. ORDER: After the closing date, the file will be reviewed by the Administrative Law Judge. The judge may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. If all County/State agencies' comments are received, you will receive written notification as to whether the petition has been granted, denied, or will proceed to a public hearing. This decision is usually made within 10 days of the closing date. The written order will be mailed to you by First Class, mail.
4. POSSIBLE PUBLIC HEARING AND REPOSTING: In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the Administrative Law Judge), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.
(Detach Along Dotted Line)
Petitioner: This Part of the Form is for the Sign Poster Only
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT
Case Number 2019- D154 -A Address 9017 ERIMIKE CT.
Petitioner's Name JAMES M. SMITH Telephone 410-701-0250
Posting Date: 11/18/18 Closing Date: 12/03/18
Wording for Sign: To Permit an addition with a side yard setback
of 25 in lieu of the required 50 And to amend the FDP
of Mioterie Meadow for Lot #1 only.
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# DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW OFFICE

### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (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 legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/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.

or Newspaper Advertising:
Case Number: 2019-0154-A
Property Address: 9017 Erimike ct. Randallstown MO
Property Description:
egal Owners (Petitioners): <u>James M. Smith</u>
Contract Purchaser/Lessee:
PLEASE FORWARD ADVERTISING BILL TO:
Name: James M. Smith
Company/Firm (if applicable):
Address: 9017 Erimike Ct. Randallstown Md
2/133
Telephone Number: 410 - 701 - 0250

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JOHN A. OLSZEWSKI, JR. County Executive

James Smith & James Smith, Jr.

9017 Ermike Ct.

Randallstown, MD 21133 DIRECTOR
Department of Permits,
Approvals & Inspections

Dear Mr. Smith & Mr. Smith Jr.:

RE: Case Number: 2019-0154A, Address: 9017 Ermike Ct.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 17, 2018. 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,

W. Carl Richards, Jr.

Supervisor, Zoning Review

WCR: MTC

Enclosures

c: People's Counsel



**Inter-Office Correspondence** 





TO:

Hon. Lawrence M. Stahl; Managing Administrative Law Judge

Office of Administrative Hearings

FROM:

Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE:

November 29, 2018

SUBJECT:

**DEPS** Comment for Zoning Item

# 2019-0154-A

Address

9017 Ermike Court

(Smith Property)

Zoning Advisory Committee Meeting of November 19, 2018.

<u>X</u> The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

Reviewer:

Steve Ford



Larry Hogan Governor Boyd K. Rutherford Lt. Governor Pete K. Rahn Secretary

Gregory Slater Administrator

Date: 11/15/18

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2019-0154-A

Administrative Varional Formes Smith & Jowes Smith, Fri 9017 Ermike Count

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

Wendy Wolcott, P.L.A.

Metropolitan District Engineer

Maryland Department of Transportation

State Highway Administration

District 4 - Baltimore and Harford Counties

Dele

WW/RAZ

CASE NO. 2019- 0154-19

# CHECKLIST

Comment Received	<b>Department</b>	Conditions/ Comments/ No Comment
11-29	DEPS (if not received, date e-mail sent)	NO
ξ	FIRE DEPARTMENT	
* 1 y -	PLANNING (if not received, date e-mail sent)	
11-15	STATE HIGHWAY ADMINISTRATION	No objection
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	, **
-	ADJACENT PROPERTY OWNERS	
ZONING VIOLAT	TION (Case No	
PRIOR ZONING	(Case No	
NEWSPAPER AD	VERTISEMENT Date:	
SIGN POSTING (	1st) Date: 11-17-18	by O'Keefe
SIGN POSTING (2	2 <sup>nd</sup> ) Date:	by
	SEL APPEARANCE Yes No	
Comments, if any:		

### Real Property Data Search

### Search Result for BALTIMORE COUNTY

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View Map View GroundRent Redemption						View GroundRent Registration					
Tax Exe Exempt			Special Tax Recapture: NONE								
Account I	ldentifier:		Distri	ct - 02 Account	Number - 2	5000044	436				
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Premises	Address			ERIMIKE CT DALLSTOWN M	D 21133-		Le	gal Desci	ription:	1.5000 AC 9017 ERIMIKE MISTERIC MEA	
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Stories 2		asement ES	Type STANDARD L	INIT	Exterior		II/Half Bat	:h	Garage 1 Attached	Last Major Rend	ovation
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## ZAC AGENDA

Case Number: 2019-0154-A

Reviewer: Jun Fernando

Proposed Use: Existng Use: RECREATIONAL

Type: ADMINISTRATIVE VARIANCE

Legal Owner: JAMES SMITH & JAMES SMITH JR. Contract Purchaser: No Contract Purchaser was set.

Election Dist: 2 Council Dist: 4 Critical Area: No Flood Plain: No Historic: No.

Property Address: 9017 ERMIKE CT

Location: S SIDE OF ERMIKE CT @ DISTANCE OF 235' E OF THE CENTERLINE OF OFFUTT RD.

Existing Zoning: RC 5

Area: 15 AC

Proposed Zoning:

ADMINISTRATIVE VARIANCE:

To permit an addition with a side yard setback of 25' in lieu of the required 50'. And to amend the FDP of Misteric

Meadow for lot 1 only. Attorney: Not Available Prior Zoning Cases: None Concurrent Cases: None Violation Cases: None Closing Date: 12/03/2018

Miscellaneous Notes:

Reviewer: Aaron Tsui Case Number: 2019-0155-A

Existng Use: RESIDENTIAL **Proposed Use:** 

Type: ADMINISTRATIVE VARIANCE

Legal Owner: DERICK AGYEMANG DUAH

Contract Purchaser: No Contract Purchaser was set.

Election Dist: 9 Council Dist: 6 Critical Area: No Flood Plain: No Historic: No

Property Address: 2400 PERRING WOODS RD

Location: NS OF PERRING WOODS; NE CORNER OF THE INTERSECTING STREETS OF PERRING WOODS RD &

WESTMORELAND AVE.

Existing Zoning: DR 5.5

Area: 9,680 SQ FT

**Proposed Zoning:** 

ADMINISTRATIVE VARIANCE:

To permit a proposed building addition to the rear of the existing single family dwelling in a corner lot, with a side yard setback of 20' and a rear yard setback of 20' in lieu of the required 25' and 30' respectively.

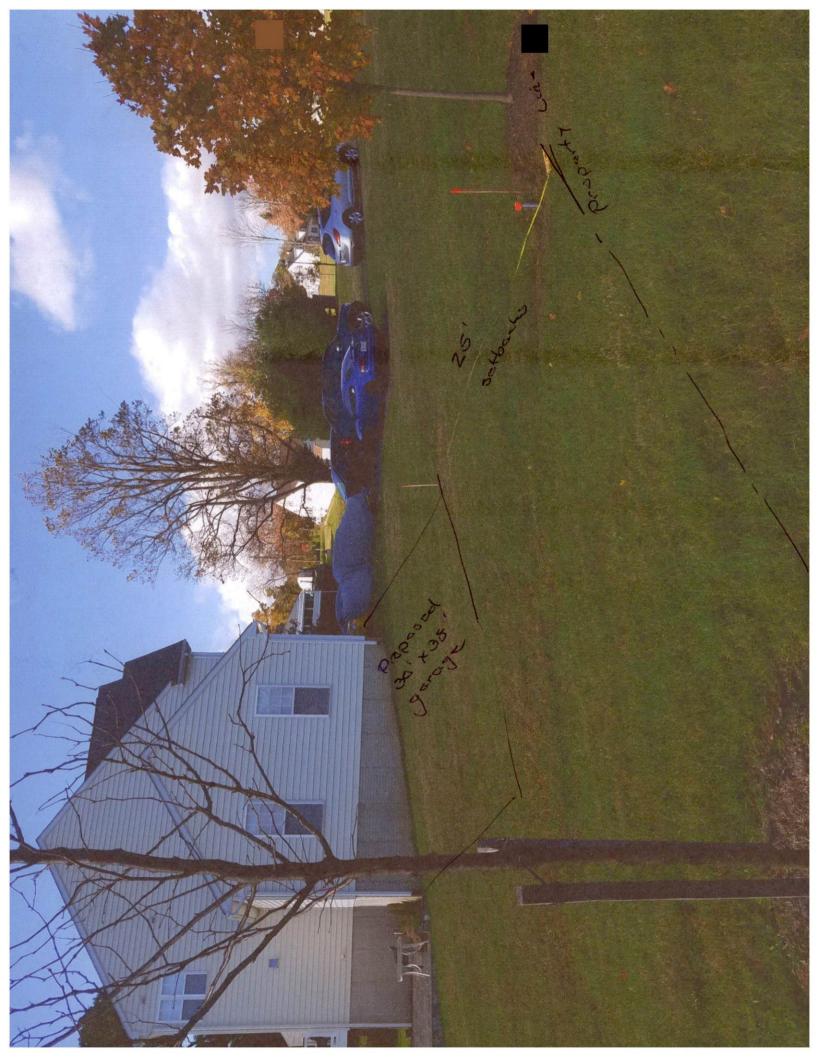
Attorney: Not Available

Prior Zoning Cases: 1987-0214-A

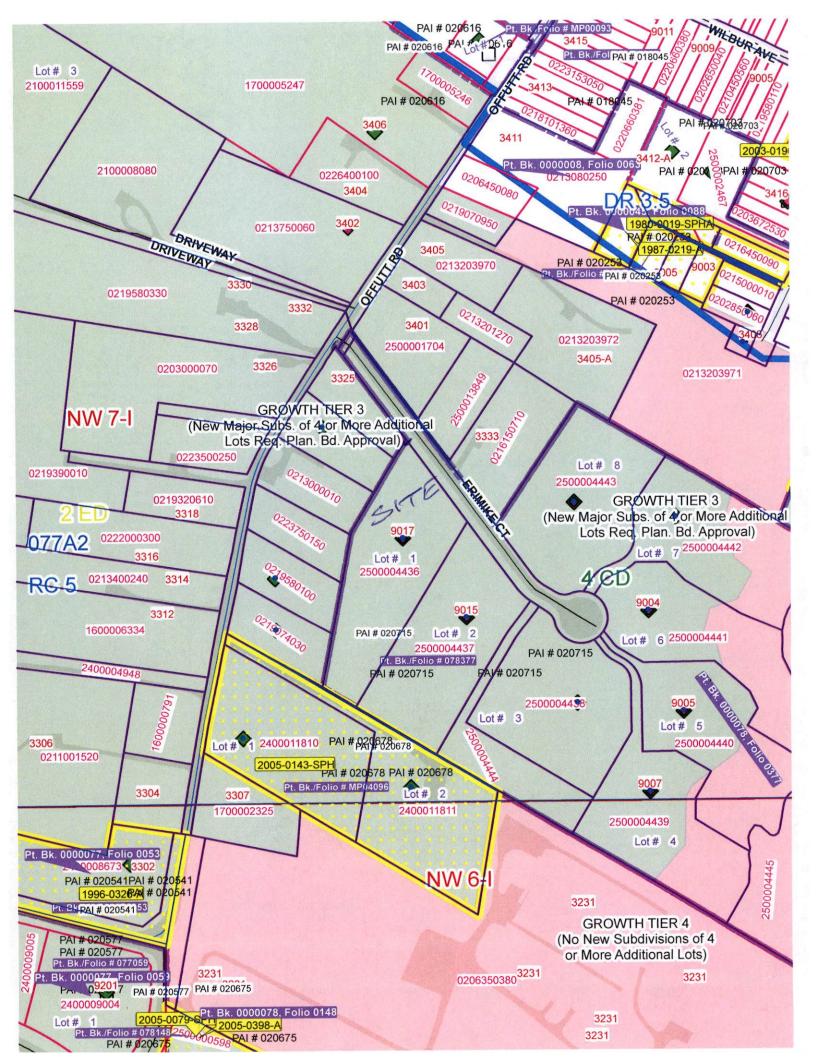
Concurrent Cases: None Violation Cases: None Closing Date: 12/03/2018

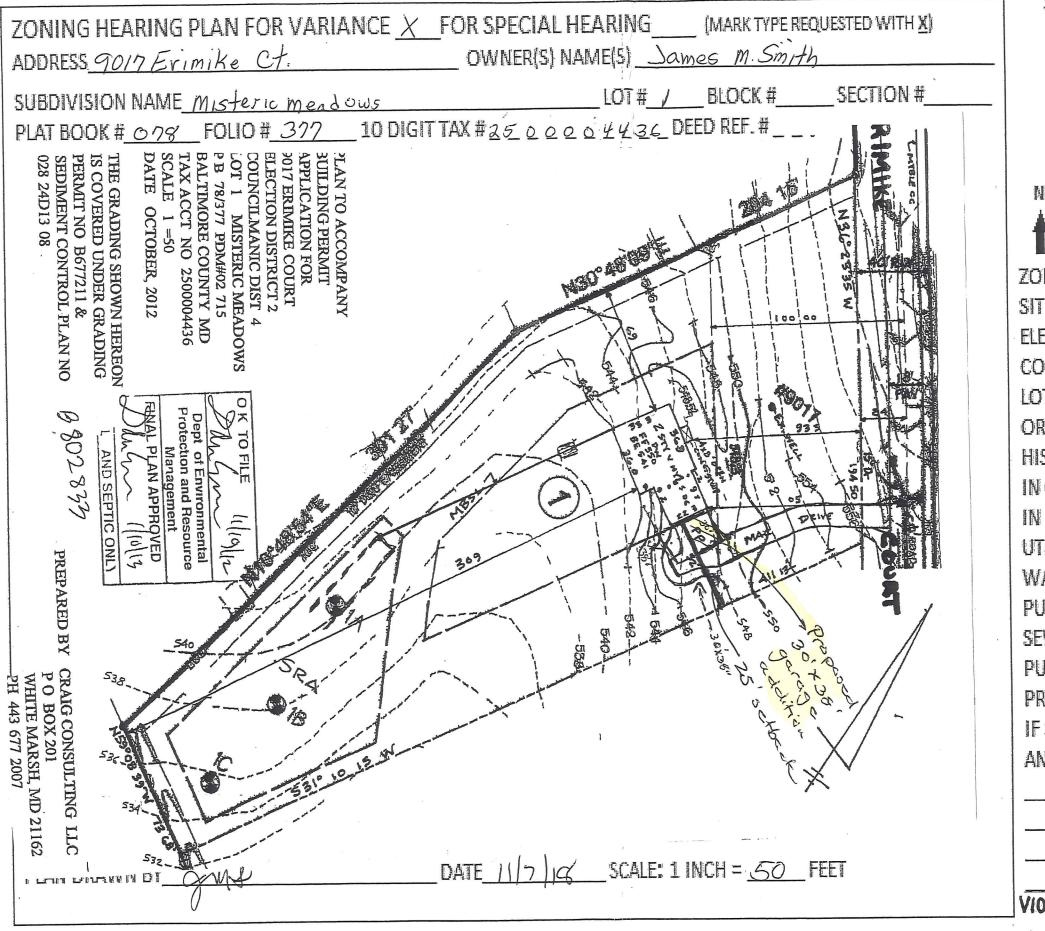
Miscellaneous Notes:











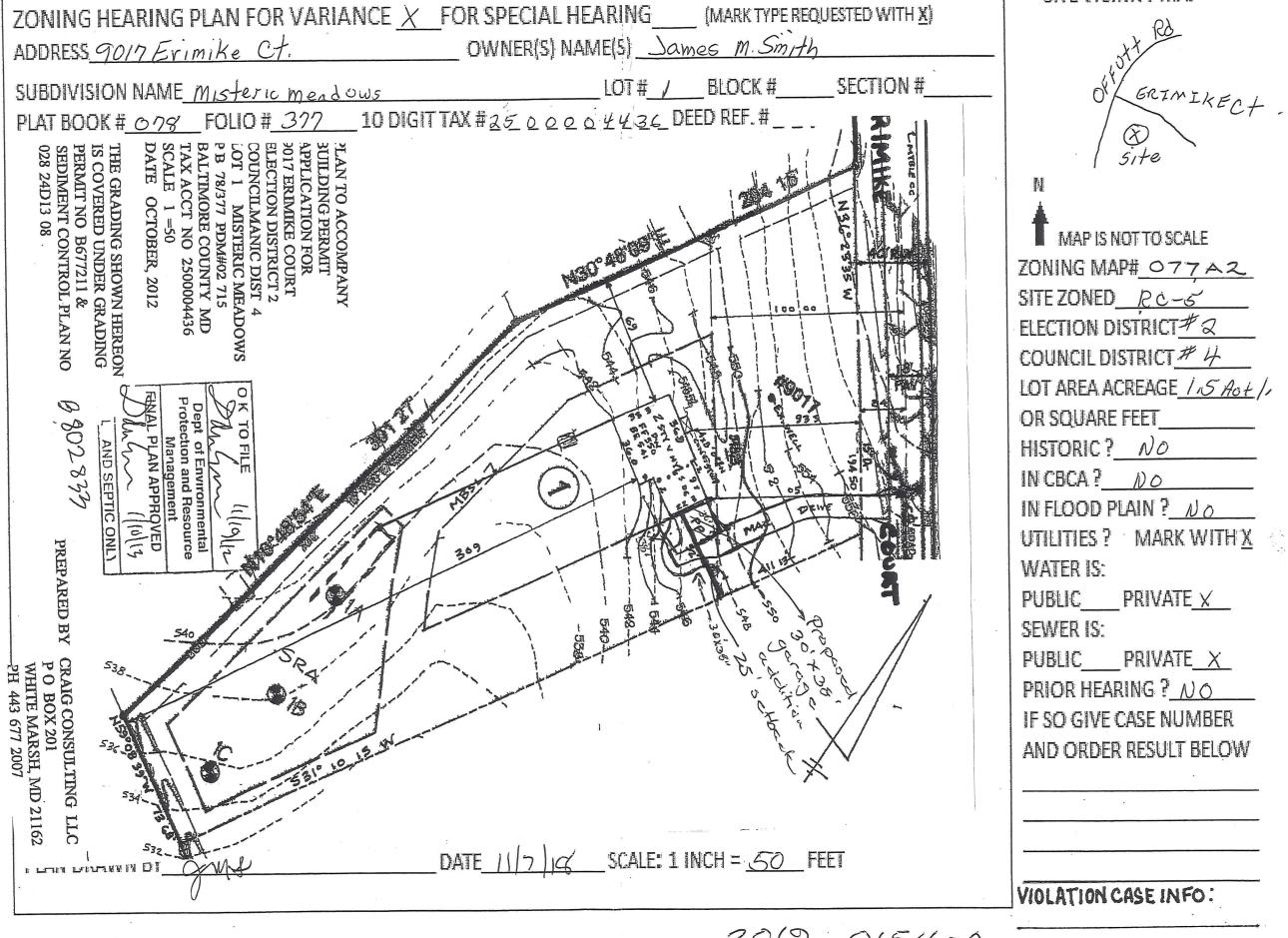
SITE VICINITY MAP

OK GRIMIKECT.

MAP IS NOT TO SCALE ZONING MAP# 077A2 SITE ZONED RC-5 ELECTION DISTRICT#2 COUNCIL DISTRICT # 4 LOT AREA ACREAGE 1.5 Act 1. OR SQUARE FEET HISTORIC? NO IN CBCA? NO INFLOOD PLAIN? NO UTILITIES? MARK WITH X WATER IS: PUBLIC PRIVATE X SEWER IS: PUBLIC PRIVATE X PRIOR HEARING ?\_NO IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW

VIOLATION CASE INFO:

Pet. Ech



2019-0154-4

SITE VICINITY MAP