

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

RECEIVED MAR - 4 2009 HARFORD COUNTY COM	Case No. <u>5686</u>
	Date Filed <u>2-24-09</u>
	Hearing Date _____
	Receipt _____
	Fee <u>250.00</u>

Shaded Areas for Office Use Only

<p style="text-align: center;">Type of Application</p> <p>_____ Administrative Decision/Interpretation</p> <p>_____ Special Exception</p> <p>_____ Use Variance</p> <p>_____ Change/Extension of Non-Conforming Use</p> <p>_____ Minor Area Variance</p> <p>_____ Area Variance</p> <p>_____ Variance from Requirements of the Code</p> <p>_____ Zoning Map/Drafting Correction</p>	<p style="text-align: center;">Nature of Request and Section(s) of Code _____</p> <p><u>CASE 5686 MAP 33 TYPE Variance ELECTION DISTRICT 03</u></p> <p><u>LOCATION 2566 Flora Meadows Drive, Forest Hill 21050</u></p> <p><u>BY Keith and Jaclyn Smith</u></p> <p><u>Appealed because a variance pursuant to Section 267-46.1B(5)(b) of the 1982 Harford County Code to allow a deck to encroach the minimum 100' conservation setback (94' proposed) in the AG district requires approval from the Board.</u></p>
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NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name KEITH & JACLYN SMITH Phone Number 410-638-1662

Address 2566 FLORA MEADOWS DRIVE FOREST HILL MD 21050
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2566 FLORA MEADOWS DRIVE FOREST HILL, MD 21050

Subdivision COLVARD MANOR / FLORA MEADOWS Lot Number 26

Acreage/Lot Size 1.98 AC Election District 03 Zoning AG

Tax Map No. 33 Grid No. 30 Parcel 434 Water/Sewer: Private X Public

List ALL structures on property and current use: _____

Estimated time required to present case: 30 MIN.

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? _____

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No X

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

• SEE ATTACHED

Justification

• SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Applicants: Keith R. Smith
Jaclyn L. Smith

Property: 2566 Flora Meadows Drive
Forest Hill, MD 21050

Request

We request a minor variance to encroach into the rear yard setback, governed by Harford County Zoning. We desire to build a deck for our growing family to enjoy for years to come. The requested deck is 22 feet by 22 feet in size. *See Attachment A1 & A2.* The Zoning Code currently only allows us to build a deck extending 16 feet from the house. By building our desired size deck we will extend 22 feet towards the rear property line, leaving us with only 94 feet instead of the required 100 feet. We have discussed the deck with our neighbors and Home Owners Association and they do not object to our proposal. The work will be completed by a license contractor, Custom Built Decks.

Justification

We feel our property is unique in several ways which caused the builder to place the home in rear of the property 116 feet from the property line.

First, our property is six sided unlike the traditional rectangular shape. The front portion of our lot is narrow in size (not suitable to build) versus the rear part the lot (suitable to build).

Second, there is a gas pipeline (Colonial Pipeline) that has right away in the front half portion of the property. This also required the builder to place house back toward rear property line.

Also, because of the location of the septic area the house was built on the east side of the property instead of a more traditional centered area that conforms with other neighbors homes and Flora Meadows Drive *See Attachment B1.* This limits the size of any future additions to the home.

Last the topography slopes from the rear of lot towards the front of property *Attachment B2.*

Because of the topography, shape, septic area and Pipeline right away the builder built the house on the only suitable portion of property (116 feet from rear property line). If approved the deck would encroach into the required set back 6 feet on the southwest corner and 5 feet on the southeast corner. The current land use for the proposed 484 sq/ft area deck is maintained mowed grass. We feel there will be no adverse effects on the environment if the deck was approved to be built.

Our plans are submitted with this application along with the signatures of our neighbors and HOA whom do not object to our proposal.



Keith R. Smith



Jaclyn L. Smith

FLORA MEADOWS DRIVE
R - 400.00
L - 83.90

N 40°28'09" E
385.65

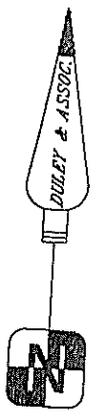
S 24°39'47" W
158.70

COLONIAL PIPELINE
RIGHT-OF-WAY

S 8°02'22" E
266.12

ROCKS ROAD
R - 1352.78
L - 167.54

#2566
2 STORY
BR & FR
W/BSMT

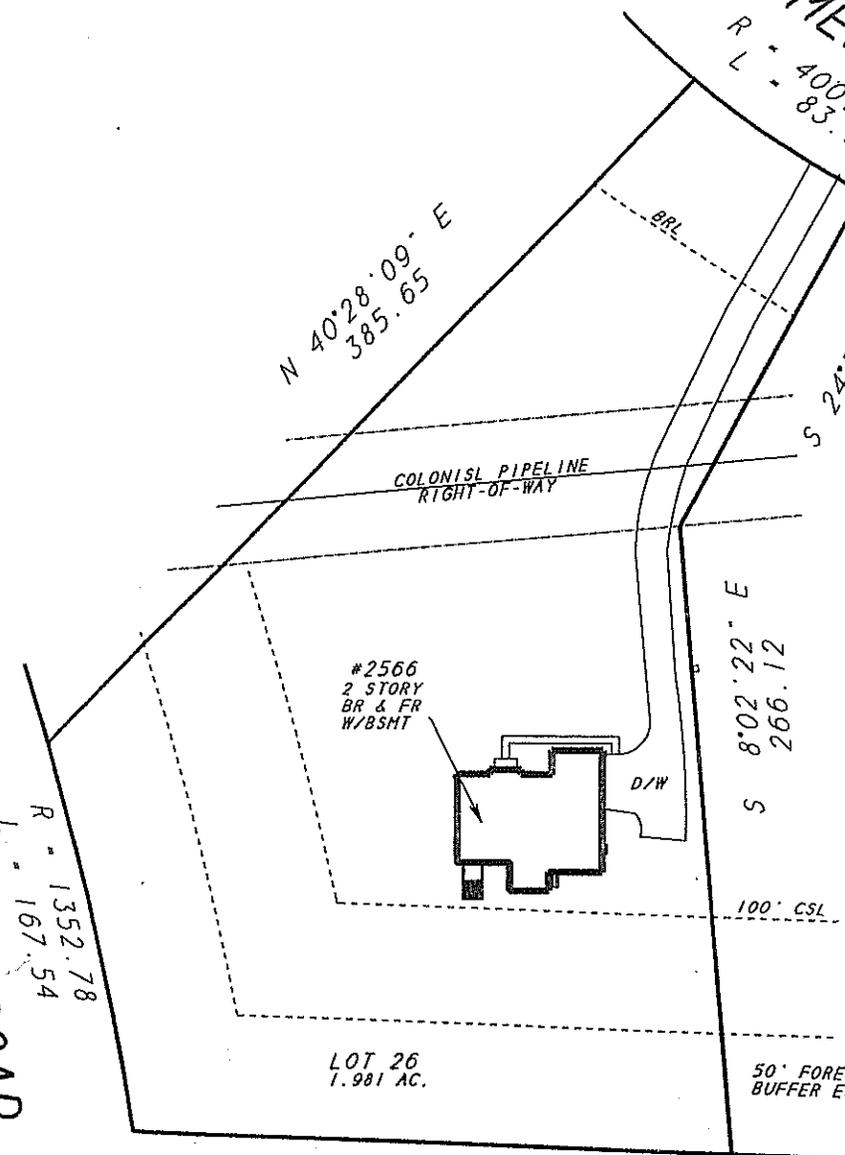


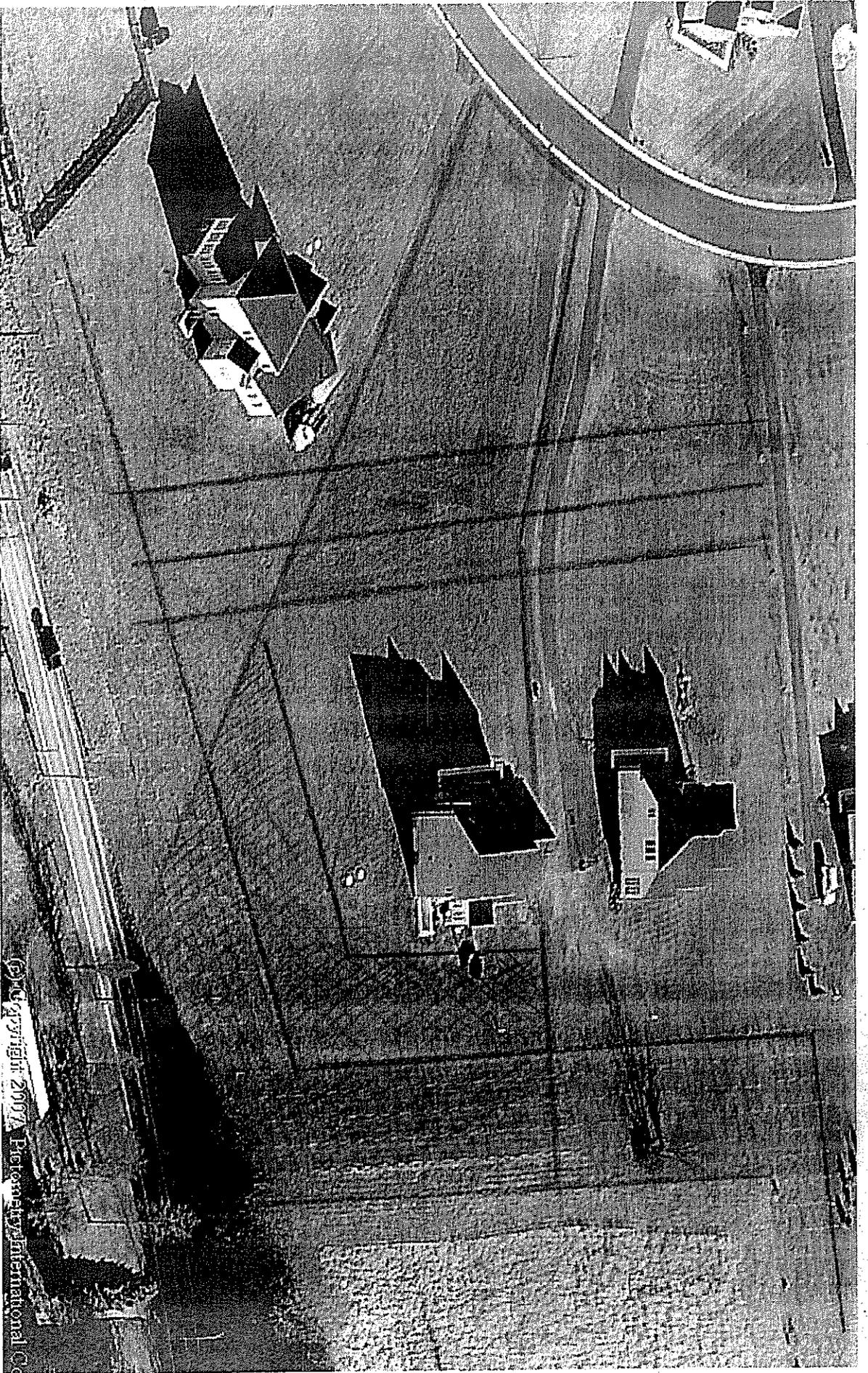
100' CSL

LOT 26
1.981 AC.

50' FOREST
BUFFER ESMT.

S 89°01'25" W
248.48





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DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

April 10, 2009

Department of Planning and Zoning

RECEIVED

APR 13 2009

HARFORD COUNTY COUNCIL

STAFF REPORT

BOARD OF APPEALS CASE NO. 5686

APPLICANT/OWNER: Keith Smith
2566 Flora Meadows Drive, Forest Hill, Maryland 21050

Co-APPLICANT: Jaclyn Smith
2566 Flora Meadows Drive, Forest Hill, Maryland 21050

REPRESENTATIVE: Applicant

LOCATION: 2566 Flora Meadows Drive/Colvard Manor/Flora Meadows
Tax Map: 33 / Grid: 3D / Parcel: 434 / Lot: 26
Election District: Third (3)

ACREAGE: 1.98 acres

ZONING: AG/Agricultural District

DATE FILED: February 26, 2009

HEARING DATE: April 29, 2009

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-46.1B(5)(a) of the 1982 Harford County Code to allow a deck to encroach the minimum 100-foot conservation setback (94-foot proposed) in the AG district.

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

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Board of Appeals Case Number 5686

Keith & Jaclyn Smith

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Section 267-46.1B(5)(a) of the Conservation Development Standards of the 1982 Harford County Code reads:

- (a) *A minimum one hundred (100) foot setback shall be established along existing public roads (measured from the edge of the right-of-way) and along the adjacent property boundaries, and water ways. This setback may be reduced to fifty (50) feet from the edge of the right-of-way and along the adjacent property boundary if the area within the fifty (50) feet contains existing forest and that forest is retained and designated as an undisturbed forest buffer area and, if necessary supplemental landscaping is provided to adequately screen the proposed development from the public road. Lots may be located within the fifty (50) foot setback provided that no structures are located within this area.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located east of Rocks Road (MD Route 24) and south of Chestnut Hill Road. The lot is situated on the south side of Flora Meadows Drive near the end of the cul de sac. A location map, a copy of the Applicants' site plan, and Plat 112-05 are enclosed with the report (Attachments 2, 3 and 4).

The subject property is located outside of the Development Envelope. The predominant land use designations are Agricultural and Rural Residential. The Village of Forest Hill is located to the south of the subject property. The Natural Features Map reflects Sensitive Species Project Review Areas, Agricultural Preservation Districts and Easements, Rural Legacy Areas, Deer Creek Scenic River District, and Stream Systems. The subject property is designated as Rural Residential which is defined by the 2004 Master Plan as:

***Rural Residential** – Areas of focused rural development within the agricultural area, which allow low intensity residential opportunities while maintaining the character of the surrounding countryside. Water and sewer services are not planned for these areas. Residential density is limited to 1.0 dwelling unit per 2 acres.*

Enclosed with the report are copies of a portion of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses in this area of the County are consistent with the 2004 Master Plan. The area contains a mix of agricultural and residential uses. Agricultural uses include cropland, pastureland, and areas of dense woodland. Residential uses are primary single family dwellings. There are commercial uses within the Village of Forest Hill. The topography of the area ranges from rolling to steep especially near the stream valleys. Enclosed with the report is a copy of a topography map along with an aerial photograph of the general area (Attachments 7 and 8).

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Keith & Jaclyn Smith

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The subject lot is located in the subdivision of Flora Meadows. The lot is located off the south side of Flora Meadows Drive. The lot is approximately 1.98 acres in size. The subject property abuts a parcel to the south that is approximately 3.0 acres in size and improved with a single family dwelling. The topography of the subject property is moderately sloping from the north to the south. The lot is encumbered by a 100-foot Conservation Easement, Forest Buffer Easement and the Colonial Pipeline right-of-way. Improvements consist of a brick and frame 2-story single-family dwelling with a paved driveway and parking area adjacent to the garage. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachment 9 and 10).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classifications are AG/Agricultural and RR/Rural Residential. There are areas of VR/Village Residential and VB/Village Business Districts. The subject property is zoned AG/Agricultural as shown on the enclosed zoning map (Attachment 11).

SUMMARY:

The Applicant's are requesting a variance pursuant to Section 267-46.1B(5)(a) of the 1982 Harford County Code to allow a deck to encroach the minimum 100-foot conservation setback (94-feet proposed) in the AG district.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty or unreasonable hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Flora Meadows subdivision was created utilizing the Conservation Development Standards (CDS) of the 1982 Harford County Zoning Code. The CDS standards allow for the clustering of lots and smaller lot sizes than what are typically required in the Ag/Agricultural District. The 100-foot setback was required along the entire development boundary and is imposed on most of the lots within this subdivision.

The Applicants' argue that there lot is unique due to the shape of the property, the location of the Colonial Pipeline on their property, the location of the septic reserve area, and the topography of the property. While the Applicants' property is not rectangular in shape, there are other uniquely shaped lots within the Flora Meadows subdivision which are similarly constrained. It is also important to note that the Applicants' lot is the largest in the subdivision at 1.98 acres. The Colonial Pipeline right-of-way impacts several of the lots along the south side of Flora Meadows Drive. Although this right-of-way encumbers the front portion of the lot, all of the impacted lots have dwellings that are situated to the rear of the lots. In fact, the dwelling on Lot 24 was situated even further back on the lot and is more encumbered than the subject property with

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Keith & Jaclyn Smith

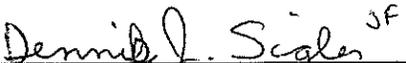
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respect to the required setback. The topography of the property is moderately sloping from the rear to the front of the property. However, the topography does not pose a hardship that would prevent the Applicants' from constructing a smaller deck outside of the 100-foot Conservation setback.

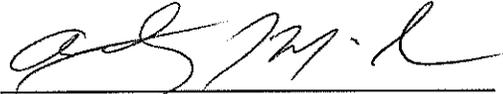
It is important to note that the recently adopted 2008 Harford County Zoning Code eliminated the requirement for the 100-foot Conservation Setback. While it is no longer required for new CDS developments, the setback was a requirement of this development in order to allow for the clustering of the lots and reduced lot sizes. All of the lots within this subdivision share similar constraints due to the reduced lot sizes, location of the septic reserve areas, and the Conservation Setback. The limited development area of these lots was a result of the developer's decision to utilize the CDS standards and should not be used as a basis for a variance. It is the Department's opinion that a variance would set an unnecessary precedent within this subdivision. Furthermore, the Applicants' can construct a 16-foot deep by 22-foot wide deck without the need for a variance. The Code at the time the subdivision was created only required that the builder provide for the ability to construct a minimum 10-foot deep deck. Therefore, the Department recommends that the requested variance be denied.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be denied.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf