

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR JANUARY 23, 2019 @ 7pm

Case Number: B-19-36, AP# 20088

Applicant: Christopher Allen

Appeal: Requesting a *Variance* pursuant to Section 1-19-3.220 of the Frederick County Zoning Ordinance from the Building Restriction Lines, Section 1-19-6.100 of the Frederick County Zoning Ordinance, in order to build a single family home. The variance request includes a 40 ft. variance from the required 50 ft. side yard setback along the south side of the property, a variance of 20 ft. from the required 50 ft. rear yard setback along the west side of the property and a 25 ft. variance from the required 50 ft. side yard setback on the north side of the property.

Location: The property identified as 7914 Edgewood Church Road, Frederick MD, Tax Map 56, Parcel 423, Tax ID# 21-418897

Planning Region: Frederick

Zoning District: Resource Conservation (RC)

Comp. Plan Designation: Natural Resource (NR)

Applicable Ordinances: Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements

Background:

The applicants property is zoned Resource Conservation (RC) and the lot size is .79 Acres and the lot width is 180.44 ft., (***See Exhibit #1***). The applicant's representative has met with Department of Planning and Permitting staff to discuss the Variance process and relevant matters associated with the construction of a single family home.

Proposal:

The applicant is requesting a *Variance* pursuant to Section 1-19-3.220 of the Frederick County Zoning Ordinance from the front Building Restriction Line, Section 1-19-6.100 of the Frederick County Zoning Ordinance, in order to build a single-family home on a residential lot. The variance request includes a 40 ft. variance from the required 50 ft. side yard setback along the south side of the property, a variance of 20 ft. from the required 50 ft. rear yard setback along the west side of the property and a 25 ft. variance from the required 50 ft. side yard setback on the north side of the property. (**See, Exhibit #2**)

General Criteria - Variance:

1-19-3.220. VARIANCES.

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

The Applicant states that the request is for a variance in yard regulations.

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

The Applicant states that the Adverse determination has been issued by the Zoning Administrator.

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:
- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

The Applicant states that the property is unique due to its narrowness and shallowness for a RC zone property. (The required lot width for a lot zoned Resource Conservation (RC) is 300 ft. The applicant's lot width is 180.44 ft.) (See Exhibit #1).

- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:
- (a) That the special conditions and circumstances do not result from the actions of the applicant; and

The Applicant states that the special conditions and circumstances were created by the RC zoning district setback requirements, and have not resulted from any action of the applicant.

- (b) The literal interpretation of the provisions of this chapter would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and

The Applicant states that the Property's narrowness and shallowness for a RC zone property, (180.44 ft.) when coupled with the current setback requirements, creates an unreasonable hardship, and deprives the applicant from building a dwelling on the property in a reasonable manner.

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and

The Applicant states that the granting of this variance will allow the owners to construct a residential dwelling similar to those in the surrounding neighborhood and does not grant them any special privilege denied to the other lands or structures in the same district.

- (d) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Applicant states that the granting of the variance will allow the property to be used in a way that is in harmony with the surrounding neighborhood, and to contain a residential dwelling.

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of this chapter.

The Applicant states that all prescribed appropriate conditions and safeguards will be followed.

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

The Applicant states that the proposed use of the property is residential and is allowed use in the RC Zone.

- (F) Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

The Applicant states that no portion of the proposed structure will be nonconforming.

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant understands this.

Actions Needed:

Staff requests that the Board review the general criteria for a Variance under Section 1-19-3.220 (Variances) and Section 1-19-6.100 Design Requirements and render a decision on the Applicant's request which includes a 40 ft. variance from the required 50 ft. side yard setback along the south side of the property, a variance of 20 ft. from the required 50 ft. rear yard setback along the west side of the property and a 25 ft. variance from the required 50 ft. side yard setback on the north side of the property, (See Exhibit #2)

Exhibit 1 – Site Plan of applicants property showing property lines, topo and access to property.

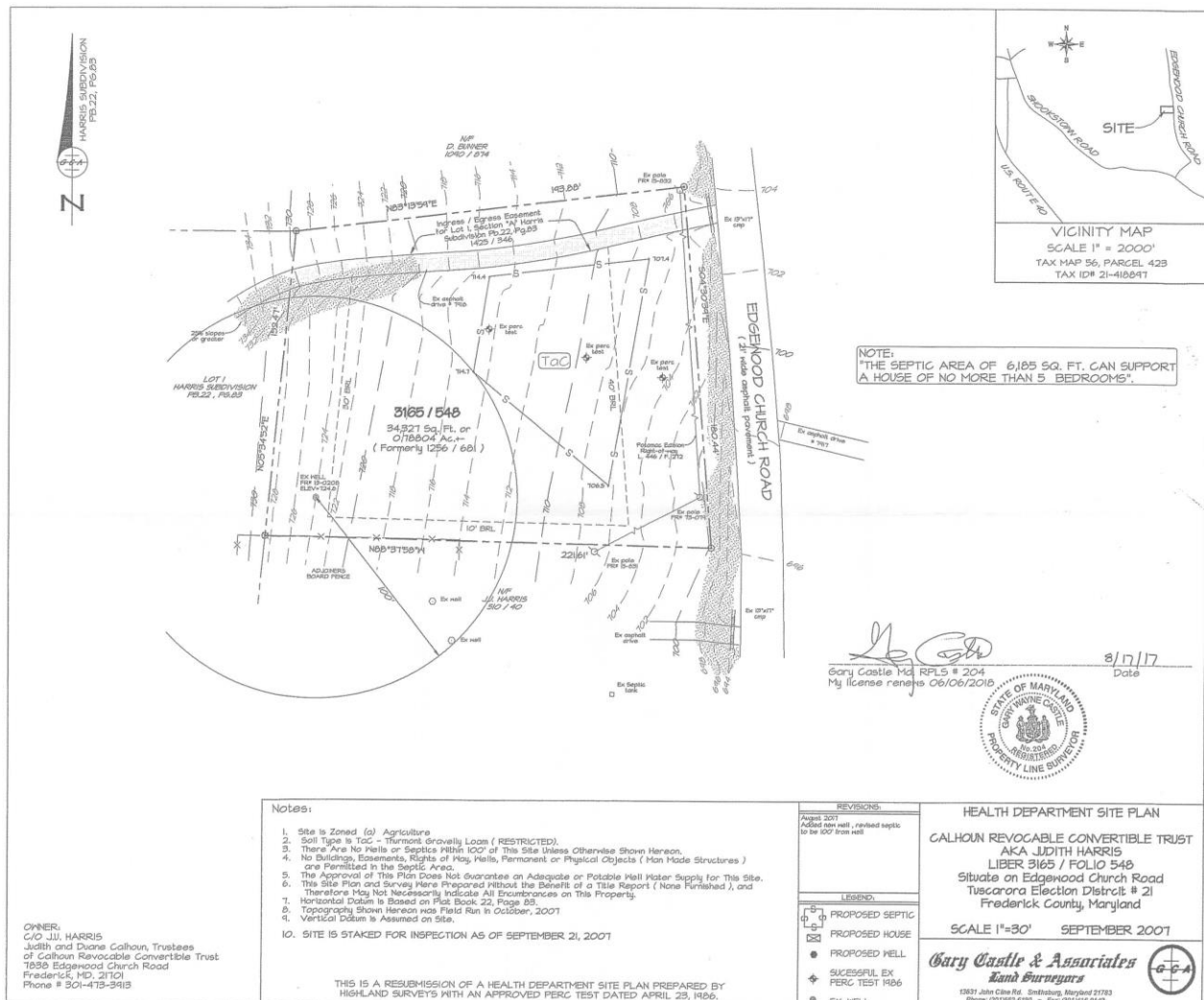
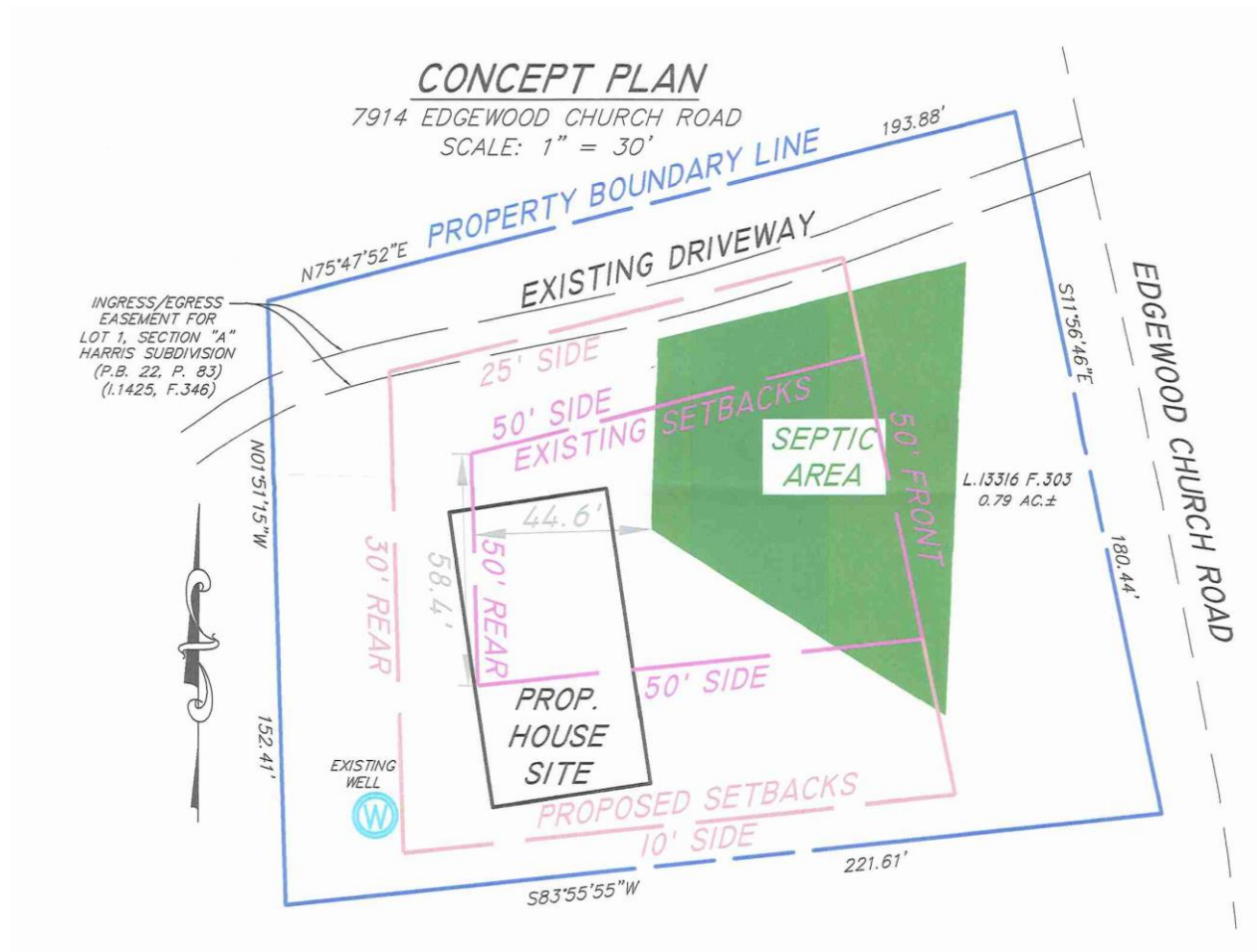
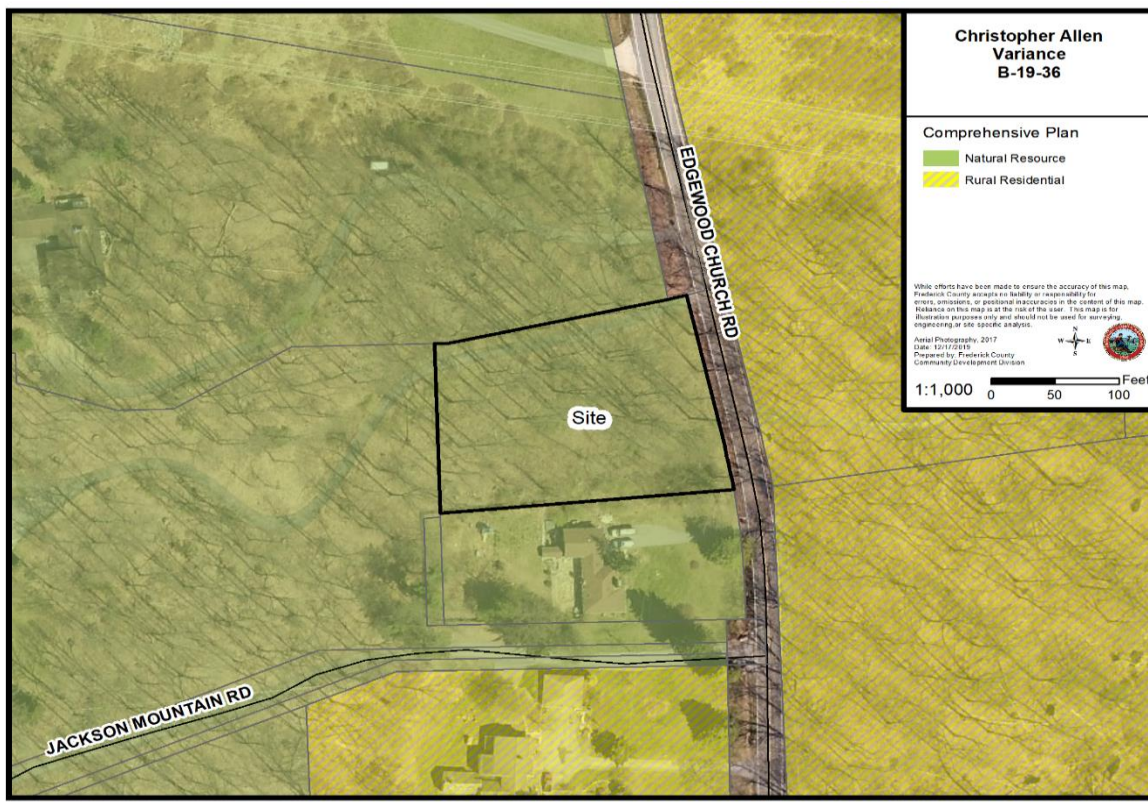
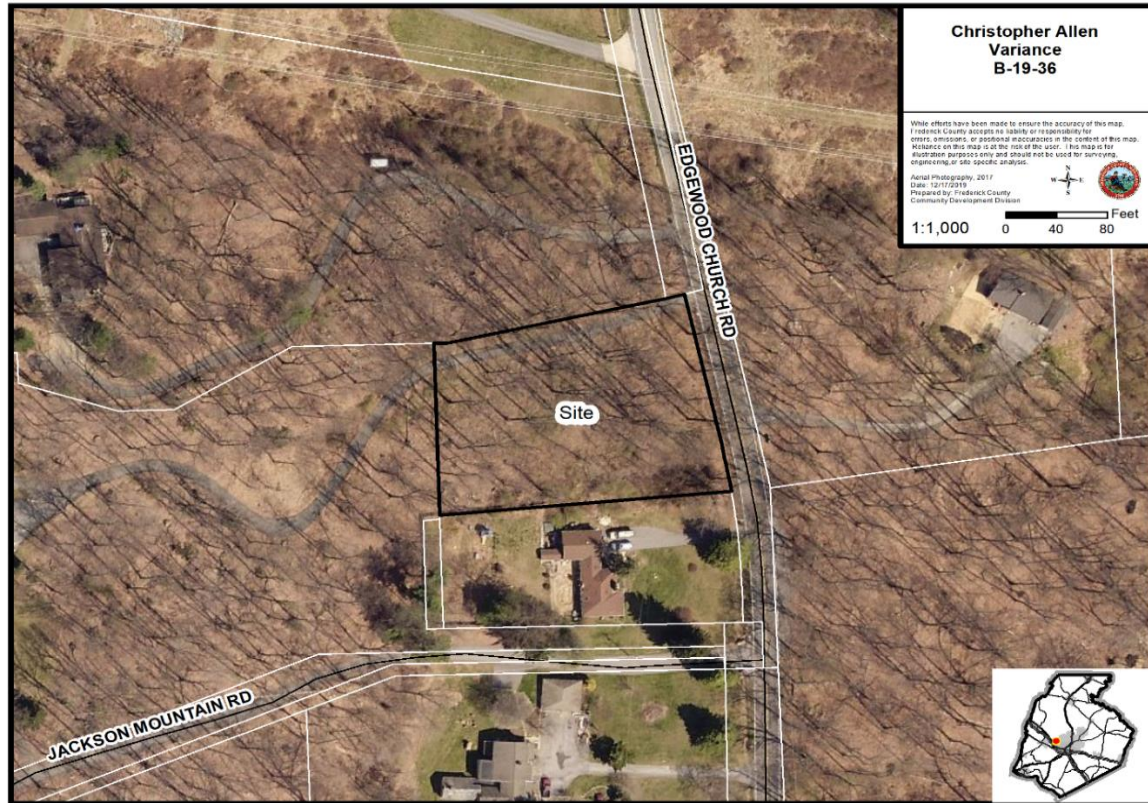


Exhibit 2 – Concept Plan of applicant's property showing property lines, septic area, proposed building restriction lines, as well as access to the property.



MAPS



MAPS Cont.

