







# LANDMARK ENGINEERING, INC.

11208 Buckwood Lane  
Rockville, MD 20852

consulting engineers • planners • surveyors

301-230-5881  
Fax: 301-230-5884  
E-Mail: landmarkengr@aol.com

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## Statement of Justification for Zoning Variance Preliminary Plan 4-20041

### Background:

The subject property for this variance request is located at 9501 50<sup>th</sup> Place, College Park, Maryland and is known as Part of Lots 42 & 43, Block 4, Daniels Park. The current and proposed zoning is R-55. The part of Lot 42 has an existing single family dwelling and an accessory building. As part of the minor subdivision request to adjust the lot line between this lot and the adjacent Part of Lot 43, Block 4 it was determined that the existing buildings do not meet current zoning code. The minor subdivision would create Lots 51 & 52, Block 4, Daniels Park. It is with this statement of justification that we request relief from parts of Section 27-442 of the Prince George's County Code.

According to SDAT information the primary structure was constructed in 1951. The Maryland database for plats does not include recording dates for plats this old. The plat which created the current right of way line along Kenesaw Street, Plat Book 20, Plat No. 33 was signed by WSSC in January of 1952 and presumably recorded shortly after that date. The plat recorded as Plat Book 21, Plat No. 61 established the 50<sup>th</sup> Place right of way line. This plat was signed by WSSC on October 17, 1952. It is thought that the house was constructed with the anticipation that these two streets would be dedicated as the front door for the house faces 50<sup>th</sup> Place. As a corner lot, the setback for both streets per Section 27-442(e) should be 25 feet. However, the location is off by a small amount.

The property to the rear of the lot was created by Deed on February 10, 1964 and recorded as Lot 47, Block 4, Daniels Park in Plat Book 51 Plat No. 9 in March of the same year. It is unclear if the garage was constructed prior to these dates.

### Conditions Requiring variance:

The following existing conditions described in Items 1 & 2, below, require a variance from the Zoning Regulations of 27-440.

1. The existing structure is setback from Kenesaw Street is 24.2 and the setback from 50<sup>th</sup> Place is 24.6 feet which are both short of the 25 foot front setback required by Section 27-442(e) of the zoning regulations. This is a condition which is not created by the proposed re-subdivision of the lots. We hereby request a variance for this Section 27-442(e) of the code for existing Part of Lot 42 which is proposed Lot 51.
2. The rear setback of the existing accessory building is 1.1 feet which falls short of the 2 foot minimum rear yard required by Section 27- 442(i) of the zoning regulations. This condition is

not created by the proposed re-subdivision of the lots. A variance for this section is requested for existing Part of Lot 42 which is proposed Lot 51.

As mentioned above, the proposed minor subdivision would adjust the lot line to provide two recordable lots from the existing parts. There is one additional existing condition, Item 3, would require a variance based on the new lot configuration created by the proposed subdivision.

3. There is a covered porch on the corner of the house nearest to Kenesaw Street which would create a non-conforming condition with respect to the side yard setback conditions of Section 27-442(e). In order to create Lot 52 with a standard 65 foot width, the setback distance of the existing screened porch on proposed Lot 51 would be 1.4 feet from the new property line.

**Alternatives Considered:** The following options were considered as potential solutions to this situation.

- a. A variance to the setback regulations that would allow the side setback for proposed Lot 51 to be reduced from 8 feet to 1.4 feet.
- b. A variance to the minimum lot area regulations to allow Proposed Lot 52 to be 58.00 feet wide and lot area to be 6,090 square feet. This alternative would provide an 8.4 foot setback for the existing covered porch.
- c. As an alternative, we considered a combination of items a and b, above. This combination would allow a larger setback from the existing porch than would be provided in option a., above and a larger lot than in option b., above. Specifically, Lot 52 would be 60.00 feet wide and 6,300 square feet. The existing porch on Lot 51 under this proposal would be 6.4 feet from the new property line and a minimum of 14.4 feet from any possible house on Lot 52. This would be a variance of 1.6 feet. We felt that this combination would be the best solution and the variances described in the next paragraphs reflect this option.

We are requesting the proposed Lot 52 be granted a variance for width under Section 27-442(d) and be permitted to have a front Lot Width of 60.00 feet at the Building Restriction Line. This configuration would create a lot 6,300 square feet and require a variance for area less than 6,500 square feet as required under section 27-442(b). This variance is for a reduction of lot area by 200 square feet.

We are requesting a variance for Section 27-442(e) to allow the side yard for Lot 51 to be reduced from 8.0 feet to 6.4 feet. This variance is for a reduction of side yard setback by 1.6 feet .

### **Findings Required for variance:**

Section 27-230 of the Zoning Ordinance states that a variance may only be granted when the Board of Zoning Appeals finds that:

1. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions
  - The existing lot is not exceptionally narrow or shallow.
  - There is nothing exceptional regarding the shape or topography.
  - The extraordinary situation is that there is an existing house that was apparently built shortly before the subdivision of the property.
2. The strict application of this subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon the owner of the property.

- As the house has existed for more than 68 years it would be peculiar and unusual to raze or modify the structure to meet the current zoning code.
  - The roof of the covered porch extends well up the line of the roof and would require considerable structural modifications to eliminate. The modification to the existing roof is well beyond what would be considered normal roofing maintenance due to the changes required in installing new rafters. The undue hardship involved would be to incur significant construction expense with no additional value to the existing house. At present there is a prohibition on rent increases due to the pandemic. The owner would have to pay the debt service on the construction until such a time as the rents could be increased. There may be tenant protections which would limit the rent increase on existing tenants.
3. The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan. All of these criteria must apply.
- The Prince George's 2035 Approved General Plan shows this area as medium residential.
  - The Approved Master Plan, Adopted 1989 and Sectional Map Amendment, May 1990, Langley Park, College Park and Greenbelt also identify this area as residential.

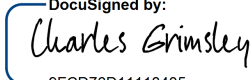
Since the existing and proposed use are residential, there is no impairment to the intent, purpose or integrity of the General Plan or Master Plan.

- The requested variances for proposed Lot 52 would not create a lot which is out of character for the neighborhood.
  - Lot 44 which is immediately to the east of the proposed subdivision is 60 feet wide and 5,400 square feet and was created by the same record plat as Lots 42 and 43 in 1952 .
  - Lot 46 which is adjacent at the northeasterly corner of the proposed Lot 52 is 50 feet wide and 6,000 square feet and was also created by the same record plat.
  - In 2013 a record plat titled Lots 48 through 50, Block 4, Daniels Park and recorded at Plat Book 238 as Plat No 46 created two lots which are less than 60 feet at the building restriction line and less than 6,000 square feet.
  - On Lot 48 there is an existing deck which is 2 feet from the property line of Lot 49.

We request that the Planning Board approve the proposed Lot 51 variances for front and rear setbacks.

Ultimately zoning codes are designed to protect property values, tax revenue and public safety. Property values and tax rates are calculated by the value of the land and the value of the improvements. Also, this subdivision is fulfilling a county goal of providing practical infill development. Since there are other existing improvements which are less than 6.4 feet in the neighborhood, we feel the variance for side yard setback on Lot 51 should be approved. Since the proposed variances are consistent with lot widths and areas for other lots in the neighborhood, we feel the variance request for the width and area for Lot 52 should be approved.

Sincerely:

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 9/10/2021  
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Landmark Engineering, Inc.  
Charles T. Grimsley, P. E.