



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

MCPB  
Item # 8  
4/21/05



MEMORANDUM

**DATE:** April 14, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*  
Catherine Conlon, Acting Supervisor *CC*  
Development Review Division

**FROM:** Richard A. Weaver, Planner Coordinator *RAW*  
Development Review Division

**REVIEW TYPE:** Preliminary Plan Review

**APPLYING FOR:** Resubdivision of Existing Lot 6, Kensington View

**PROJECT NAME:** Kensington View

**CASE #:** 1-05047

**REVIEW BASIS:** Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations

**ZONE:** R-60

**LOCATION:** Located in the northeast quadrant of the intersection of Upton Drive and Kensington Boulevard.

**MASTER PLAN:** Wheaton

**APPLICANT:** William Wells

**HEARING DATE:** April 21, 2005

**STAFF RECOMMENDATION:** Approval, pursuant to Section 50-29(b)(2) of the Montgomery County Subdivision Regulations, subject to the following conditions.

- 1) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 2) Record plat to provide for dedication of an additional 10 feet of right-of-way for Upton Road.
- 3) Compliance with conditions of MCDPWT letter dated, March 11, 2005 including no portion of the garage to be located closer than 20 feet to the sidewalk, unless otherwise amended.
- 4) Compliance with the conditions of approval for the MCDPS stormwater management approval.
- 5) Other necessary easements

### **SITE DESCRIPTION:**

Lot 6 of the Kensington View subdivision was platted in 1925 and remains in its original platted configuration at 10,068 square feet. The lot is vacant with a number of mature trees but no forest. Kensington Boulevard abuts Lot 6 to the northwest and Upton Drive abuts the property to the south. A building setback was established along Kensington Boulevard at the time of platting which set development back 40 ft. from the edge of the Kensington Boulevard right-of-way (Attachment A – Record Plat). This setback was established for all lots within the Kensington View Plat that abut Kensington Boulevard. The setback was not established to conform to a zone, (the plat pre-dates any County Zoning Ordinance); rather, it is a setback from Kensington Boulevard that was apparently envisioned as a parkway type road, possibly with a stream down the middle. The setback associated with Kensington Boulevard severely limits the ability to develop Lot 6 with a residential unit that is consistent with the existing housing stock in the neighborhood. The setback results in a buildable area of approximately 2,000 square feet and of an irregular shape.

Kensington Boulevard is a discontinuous road that has not been built to a full section road typical of a seventy-foot right-of-way. The road currently terminates adjacent to the subject lot in a cul-de-sac. It does not connect to Upton Lane as may once have been anticipated. As discussed below, there is no desire either by MCDPWT or the Wheaton CBD Sector Plan to make the full width improvements to Kensington Boulevard.

### **PROJECT DESCRIPTION:**

This application is a request for the Planning Board to reduce the setback established by the 1925 record plat from 40-feet to the standard R-60 side yard setback of 15-feet. Since the 40-foot setback is not a zoning setback and, therefore, not established by the Zoning Ordinance, the applicant has submitted a preliminary plan of resubdivision to bring this request before the Planning Board. Since the application requests

modification of a recorded lot, it is being reviewed as a resubdivision pursuant to Section 50-29(b)(2) of the Subdivision Regulations.

The Wheaton CBD Sector Plan includes the subject lot and right-of-way. The Sector Plan is silent on the future improvements to Kensington Boulevard and does not encourage this road connecting to Upton Drive nor does it recommend that it become a wider parkway type road. The March 11, 2005 letter from MCDPWT (attachment B) also states that, "We do not see the need to extend Kensington Boulevard at this time."

The majority of lots in the Kensington View neighborhood have been developed, and the majority of those structures built on lots fronting on Kensington Boulevard have respected the 40 ft. setback. Exceptions are that the structures on lots at the intersection of Midvale Road and Kensington Boulevard appear to have been built within the 40-foot setback. (See attachment C)

Immediately to the north of the subject lot is a house on East Avenue, which is constructed over a lot line (Lot 7 and pt. of lot 8). It is likely that this house was built across a lot line to meet the 40-foot setback. The ability to construct over a lot line is no longer allowed; the owner of the subject lot has no realistic opportunity to purchase additional land from adjacent lot owners so as to situate a house and respect the 40-foot setback.

## **DISCUSSION OF ISSUES**

### **Reduction of setback**

The request before the Planning Board is to reduce a setback established on a record plat in 1925, for a road that was presumably to be built on a much "grander" scale. The applicant has provided some historical perspective on what may have been anticipated for Kensington Boulevard since our master plan is silent on the matter. (Attachment D – Letter from Walter Petzold) The author of the letter, Mr. Walter Petzold, also is the engineer for the application, and he is a life long resident of Montgomery County with some historical perspective on the area. His letter is offered only to shed some light on what the vision for Kensington Boulevard may have once been.

Staff has reviewed the existing building pattern established along Kensington Boulevard. Except for the aforementioned lot on East Avenue (Lot 7 and Pt. of Lot 8) and Lot 13 confronting it, all other lots in the immediate area front on Kensington Boulevard. Most lots have existing homes built on them and the majority have been able to meet the 40-foot setback with the exceptions previously noted. The two lots described above on East Avenue have homes on them and have a side yard towards Kensington Boulevard. Both were able to meet the 40-foot setback although one was built across a lot line in order to do so. No other lots appear to be constrained by the 40-foot setback save for the two structures already constructed within the setback. Reduction of the setback would not create a situation that would allow new development but may allow

modest expansion of existing homes if similar requests were granted to other property owners. The new home as shown on the preliminary plan would in fact be 20-feet from the side property line.

### Conformance with Section 50-29(b)(2) - Resubdivision

#### Statutory Review Criteria

In order to consider an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

#### Neighborhood Delineation

The recommended neighborhood contains 19 lots, which are illustrated on the "Neighborhood Delineation" (attachment E), and include all platted lots contiguous to the subject property plus those in close proximity to the subject property along the existing road network. The "Neighborhood Analysis for Preliminary Plan – Proposed Lot 11, Block J, Kensington View" (attachment F) lists the variation in lot shapes, sizes, areas, frontages, widths and alignments in a tabular format. Staff concurs with the neighborhood proposed by the applicant.

#### Comparison of the Character of Proposed Lot to Existing Lots

**Frontage:** In the 19 lot neighborhood, lot frontages range from 50- feet to 100- feet. The proposed lot will have an 80-foot frontage and, therefore **be of the same character with other lots in the neighborhood with respect to frontage.**

**Area (Net Area):** For the neighborhood, lot areas range from 1,875 square feet to 4,560 square feet. The proposed lot will have an area of 3,950 square feet. **The lot will be of the same character as the existing lots in the neighborhood as it pertains to area.**

**Lot Size (Gross Area):** The lot sizes in the delineated neighborhood range from 6,455 square feet to 10,622 square feet. The proposed lot will have a lot size of 9,300 square feet, again, within the range of lot criterion. **Therefore, the resubdivision will be of the same character with the other lots in the neighborhood with respect to size.**

**Lot Width:** The lot widths in the neighborhood range from 50-feet to 80-feet. The proposed lot will be 80-feet wide. While the proposed lot will be at the high end of the range for the neighborhood with respect to width, this resubdivision will not result in a change in lot width from what it is currently. **Therefore, it is of the same character as the existing lots in the neighborhood.**

**Shape:** Generally lots in the existing neighborhood are either rectangular or irregularly shaped. **The proposed lot, being irregularly shaped, is of the same character as other lots within the neighborhood.**

**Alignment:** All lot lines in the existing neighborhood generally align perpendicularly to the right-of-way upon which they front as do the corner lots. The proposed lot lines intersect the road with perpendicular lines and will allow the home to be situated parallel to the frontage line. **The alignment of the proposed lot is of the same character as the defined neighborhood.**

**Residential Use:** **The existing lots and the proposed lot are suitable for residential in use.**

## CONCLUSION

The request to reduce the setback is supported by staff. It does not conflict with the current master plan's recommendation for Kensington Boulevard. It appears that the setback is not essential to the Kensington Boulevard vision that once may have been planned in 1925. In staff's estimation, reduction of the 40-foot setback would not result in a house location that is out of character with the neighborhood.

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. The proposed lot will be in character with the neighborhood. As such, staff finds that the proposed resubdivision complies with Section 50-29(b)(2).

For these reasons staff recommends approval of the application.

### Attachments:

- Attachment A – Record Plat
- Attachment B – MCDPWT letter
- Attachment C - Neighborhood Development Map
- Attachment D – Petzold letter
- Attachment E – Neighborhood Delineation
- Attachment F - Data Table