

STATE OF ILLINOIS        )  
  )  
COUNTY OF DUPAGE        )  
  )  
CITY OF NAPERVILLE        )

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION TO  
GRANT A ZONING VARIANCE AND A DEVIATION FROM THE PLATTED  
SETBACK FOR THE PROPERTY 525 E. HILLSIDE ROAD**

**THE UNDERSIGNED** Petitioner, Civil & Environmental Consultants, Inc., a Pennsylvania corporation (hereinafter “the Petitioner”) respectfully petitions the City of Naperville (the “City”) to (i) approve a zoning variance from the R1B front yard setback requirement; (ii) approve a deviation from the platted setback; and (iii) such other relief from the City of Naperville Municipal Code (the “Code”) as may be deemed necessary and appropriate to develop the property commonly known as 525 E. Hillside Road, Naperville, Illinois, and legally described on Exhibit A (the “Property”).

In support of this Petition, the Petitioner represents to the City as follows:

1. The Owner of the Property is Alexander P. Lewis and Kelsey E. Lewis (“Owner”).
2. Owner is constructing a new custom home on the Property.
3. The Petitioner, Civil & Environmental Consultants, Inc. is the civil engineering and land surveying firm hired by the custom home builder of the Property to perform the engineering and surveying work associated with the new home build on the Property.
4. The Property is zoned R1B in the City of Naperville and consists of one (1) lot totaling approximately 0.23 acres, or 11,025 square feet
5. The existing land uses surrounding the Property are as follows:
  - a. North: R1B single family residential
  - b. East: R1B single family residential
  - c. South: R1B single family residential
  - d. West: R1B single family residential

6. The front yard setback in the R1B zoning district is 30 feet.
7. The Property is subject to a 30-foot platted setback line in the front yard pursuant to the underlying plat of subdivision for Moser Highlands recorded as Document No. 1954-728128 in DuPage County (“Underlying Plat”).
8. Due to a foundation layout error by the Petitioner, the foundation for the new home was installed in the wrong location and now encroaches into the 30-foot front yard setback and over the 30-foot platted setback by 3.88 feet.
9. Petitioner now requests variances from the City of Naperville to permit the foundation of the home to encroach into the required front yard setback and over the platted setback line

**ZONING VARIANCE FROM THE REQUIRED 30’ FRONT YARD SETBACK**

10. The variance request is appropriate based on the following factors:
  - a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive plan.*

The purpose and intent of the R1B District is to provide single-family areas of medium density character with lots containing a minimum of 6,000 square feet. By way of granting the requested variance, there will be no changes to the medium density character of the area or the overall 11,025 square foot lot size, which well exceeds the district’s minimum of 6,000 square feet. In addition, the purpose of the required front yard setback is to have the houses on each street in this district be a consistent distance from the property line to ensure there is a cohesive neighborhood. Prior to demolition, the previous residence encroached into the front yard setback by 2.39 feet. This encroachment did not cause harm to the neighborhood and did not significantly stand out given the Property is located on the

exterior curvature of Hillside Road. The building's architecture steps back on both the left and right side of the front elevation helping to align with neighboring homes. Accordingly, granting the variance to encroach 3.88 ft into the required setback will not impact the general consistency of front yard setbacks in this area.

*b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to the special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Prior to demolition, the 1-story brick residence located on the Property was situated approximately 27.61 feet from the front yard lot line and thereby did not meet either the required 30-foot setback under the Code or Plat. When proceeding with construction of the new residence on the Property, Petitioner inadvertently laid out the foundation approximately 26.12' from the front lot line, creating a 3.88' encroachment into the required front yard setback. The error was not discovered until the foundation installation was completed and surveyed. Partial removal of the garage up to the 30-foot platted setback line is not feasible based on the floor plan of the custom home. Strict enforcement of the Code would require the Petitioner to demolish and remove the entire foundation and reinstall the new foundation in the permitted location. The removal and reinstallation of the foundation for the 3,976 square foot residence would cause an exceptional hardship and practical difficulties to both the Owner and Petitioner. It is noted that the front porch is allowed to encroach into the required 30 foot front yard setback up to five feet. By definition of the Code, the encroachment is limited to 47 square feet of the proposed garage. This is an isolated issue and will not be repeated for other lots in the subdivision

*c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance request is for a 3.88' encroachment into the front yard setback. The 3.88-

foot encroachment is not noticeable by the general public or neighboring properties. Prior to demolition, the residence encroached into the required front yard setback by 2.39 feet and did not negatively impact the adjacent properties. In addition, the front porch is allowed to encroach into the required 30-foot front yard setback up to five feet. In this instance, the porch is located 26.12' from the front lot line, which is a permitted encroachment by Code. Though the proposed garage is located in line with the porch, it is not a permitted encroachment and thus requires a variance. By definition of the Code, the encroachment is limited to a mere 47 square feet of the proposed garage. Granting the variance to allow the new residence to encroach 3.88 feet into the required front yard setback will not cause a substantial detriment to the adjacent properties.

**APPROVAL OF A SUBDIVISION DEVIATION FROM THE 30' PLATTED  
SETBACK**

- a. *The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the owner or petitioner.*

Strict adherence to the provisions of this title would cause an unnecessary and exceptional hardship by requiring Petitioner to demolish and remove the foundation and reinstall the new foundation so as to shift the foundation a mere 3.88 feet. The foundation was inadvertently installed in this location and the error was not discovered until after the installation was completed. Petitioner's error was strictly unintentional. This is an isolated incident and will not be repeated for other lots in the subdivision.

- (b) *The requested Subdivision Deviation is not contrary to the intent and purpose of the provisions of this title.*

The requested subdivision deviation is not contrary to the intent and purpose of the provisions of this title. The underlying purpose of a setback requirement is to (i) ensure proper

light and air to surrounding properties; and (ii) create a degree of consistency in a neighborhood. The encroachment of 3.88' into the front yard setback will not negatively impact light and air into the adjacent properties due to the configuration of Hillside Road and the curvatures in the roadway of this area. In its current configuration, the new residence on the Property will have a 26.12' front yard setback, which will not negatively impact the light and air into the adjacent properties.

**WHEREFORE**, by reason of the foregoing, the undersigned Petitioner respectfully requests the City Council and Plan Commission take the necessary steps to (i) approve a zoning variance from the R1B front yard setback requirement; (ii) approve a deviation from the platted setback; and (iii) such other relief from Code as may be deemed necessary and appropriate to develop the Property.

**RESPECTFULLY SUBMITTED** this 16<sup>th</sup> day of December, 2022.

PETITIONER:

Civil & Environmental Consultants, Inc.,  
a Pennsylvania corporation

By:



ROSANOVA & WHITAKER, LTD.  
ATTORNEY FOR PETITIONER

**EXHIBIT A**  
**LEGAL DESCRIPTION**

LOT 13 IN BLOCK 2 IN MOSER HIGHLANDS, BEING A SUBDIVISION OF PART OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1954 AS DOCUMENT 728128, IN DUPAGE COUNTY, ILLINOIS.

COMMONLY KNOWN AS:           525 E. Hillside Road, Naperville, Illinois 60540  
PIN:   08-19-108-008