

TOWN OF CHEVY CHASE
COUNCIL MEETING
TOWN HALL
March 9, 2016

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
 - A. Call to Order
 - B. Pledge of Allegiance
 - C. Approval of Minutes of February 10, 2016 Council Meeting
 - D. Approval of February 2016 Financial Report
 - E. [Town Manager's Report](#)
 - F. Public Comments

- II. PUBLIC COMMENTS ON FY17 BUDGET (7:15-7:30 p.m.)

- III. VARIANCE HEARINGS (7:30-8:30 p.m.)
 - A. [Clark, 7204 Maple Avenue, Rear Yard Setback and Wall Plane Length](#)
 - B. [Lee, 4307 Rosemary Street, Front Yard Setback, Side Yard Setback, Wall Plane Length, Front Yard Wall](#)

- IV. PUBLIC HEARINGS (8:30-9:30 p.m.)
 - A. [Public Hearing on an Ordinance to Amend the Town's Urban Forest Ordinance](#)
 - B. [Public Hearing on an Ordinance to Amend the Town's Buildings Ordinance Related to Administrative Variances and Retaining Walls](#)

- V. COUNCIL DISCUSSIONS & ACTIONS (9:30-10:00 p.m.)
 - A. [Private Tree Removals and Appeals Standard Operating Procedures \(Urban Forest Ordinance\)](#)
 - B. [Resolution to Establish Canopy Tree Removal Impact Fee and Designate Acceptable Reforestation Trees \(Urban Forest Ordinance\)](#)

- VI. ADJOURNMENT (10:00 p.m.)

MEMORANDUM

I-E

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: March 9, 2016

This report highlights many of the initiatives undertaken by Town staff over the past month. In the interest of brevity, I have not included ongoing staff functions. Please let me know if you have any questions or need additional information.

Council/Committee/Board Assistance:

- Worked with the Community Relations Committee, Climate and Environment Committee and Public Services Committee on special events.

Special Projects:

- Drafted updated SOPs for Private Tree Removals and Appeals.
- Attended income tax revenue meetings with State Comptroller and County officials.
- Met with election board members to review procedures for 2016 election.
- Signed contract with LWV to manage 2016 election.
- Provided research on County parks/green space.
- Extended deadline for proposals for Purple Line mitigation assistance.
- Worked with Washington Gas and WSSC on pending infrastructure repairs.
- Began identifying infrastructure repairs for remainder of fiscal year.
- Managed response to winter storm.
- Processed requests for traffic signs and street lights.

STAFF REPORT

III-A

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Clark, 7204 Maple Avenue, Rear Yard Setback and Wall Plane Length
DATE: March 4, 2016

Variance Requested:

Myles Clark, 7204 Maple Avenue, is proposing to construct an addition to his house. The project requires variances as follows:

- The addition is proposed to be set back 49.8 feet from the rear property line. Town building regulations require a minimum rear yard setback of 52.7 feet; therefore, a variance of 2.9 feet is required.
- The addition is proposed to have a bay window, measuring 8.7 feet wide, that would be set back 47.3 feet from the rear property line. Town building regulations allow this bay window to project not more than 3 feet into the 52.7 foot rear yard setback; therefore, a variance of 2.4 feet is required.
- The addition is proposed to have a deck that would be set back 41.6 feet from the rear property line. Town building regulations allow a deck to project not more than 9 feet into the 52.7 foot rear yard setback; therefore, a variance of 2.1 feet is required.
- The addition is proposed to have a roof eave that would be set back 49.1 feet from the rear property line. Town building regulations allow an eave to project not more than 2.5 feet into the 52.7 foot rear yard setback; therefore, a variance of 1.1 feet is required.
- The proposed addition would create a wall plane with a length of 49.2 feet along the south wall of the house. Town building regulations prohibit walls with a plane length greater than 34 feet unless there is an offset or articulation in the wall plane that measures at least 2 feet deep and 5 feet long. The proposed wall does not have such an articulation; therefore, a variance is required.

Background:

As of March 4, the Town has not received and correspondence about the requested variances. Any comments received by the Town will be provided to the Council at the public hearing.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicant's Claims for the Variance Requests:

1. The variances are requested because the placement of the existing house on the lot relative to the required front setback, and the floor plan of the existing house, represent extraordinary conditions. The existing house is located 9 feet behind the established building line, significantly reducing the allowable depth of the house.

2. Approval of the variances is requested because conforming to the Town's building ordinance would be impractical, cause unusual practical difficulties, and cause undue hardship. Specifically:
 - a. For the rear yard setback requests: The required rear yard setback, combined with the unusually deep set back of the existing house, make it impossible to construct an addition with reasonably sized rooms.
 - b. For the wall plane length variance request: Conforming to the ordinance would make for uncomfortably tight circulation around the kitchen. The extra foot (*Staff note: there is a one-foot articulation proposed*) allows for a kitchen island which improves the functionality of the kitchen.
3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. The proposed addition is at the rear of the house, is tucked behind the original house, and leaves ample green space between the house and the neighbors. There is an existing hill that provides a natural buffer between the proposed house and the adjoining rear properties. The proposed addition includes a one-foot offset. The area where the wall plane length variance is necessary aligns with the neighbor's garage, so the visual impact is minimized.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The proposed addition extends 18 feet from the existing house, and is in scale with the modestly sized home. The proposed design adds the minimum space necessary for comfortably sized rooms, including a design for the kitchen with an island and proper circulation space.
5. The proposed addition does not impair the general plan of the Town. The proposed design does not disturb any existing trees, maintains green space on the lot, and preserves the existing side setbacks. The 49.8 foot proposed set back provides an ample buffer in the rear yard while providing a greatly improved floor plan. The addition blends in with the scale and style of the neighborhood.

STAFF REPORT

III-B

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Lee, 4307 Rosemary Street, Front Yard Setback, Side Yard Setback, Wall Plane Length, Front Yard Wall
DATE: March 4, 2016

Variance Requested:

Michael and Velina Lee, 4307 Rosemary Street, are proposing to construct an addition to their house. The project requires variances as follows:

- The addition is proposed to be set back 30.1 feet from the front property line. Town building regulations require a minimum front yard setback of 31.7 feet; therefore, a variance of 1.6 feet is required.
- The addition is proposed to have a roof eave that would be set back 29.1 feet from the front property line. Town building regulations allow an eave to project not more than 2.5 feet into the 31.7 foot front yard setback; therefore, a variance of 0.1 feet is required.
- The addition is proposed to be set back 11.6 feet from the east side property line. Town building regulations require a minimum side yard setback of 16.1 feet; therefore, a variance of 4.5 feet is required.
- The addition is proposed to have a roof eave that would be set back 9.9 feet from the east side property line. Town building regulations allow an eave to project not more than 2.5 feet into the 16.1 foot side yard setback; therefore, a variance of 3.7 feet is required.
- The addition is proposed to have a stoop that would be set back 8.7 feet from the east side property line. Town building regulations allow a stoop to project not more than 3 feet into the 16.1 foot side yard setback; therefore, a variance of 4.4 feet is required
- The stoop is proposed to have a roof that would be set back 8.7 feet from the east side property line. Town building regulations do not allow a roof covering over a stoop to project into the 16.1 foot side yard setback; therefore, a variance of 7.4 feet is required.
- The proposed addition will create a wall plane with a length of 46.3 feet along the second-story rear wall of the house. Town building regulations prohibit walls with a plane length greater than 34 feet unless there is an offset or articulation in the wall plane that measures at least 2 feet deep and 5 feet long. The proposed wall does not have such an articulation; therefore, a variance is required.
- The proposed plan includes a retaining wall in the front yard with a maximum height of 2'. Town building regulations prohibit front yard walls 1' or taller; therefore, a variance is required.

Background:

As of March 4, the Town has not received and correspondence about the requested variances. Any comments received by the Town will be provided to the Council at the public hearing.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Requests:

1. The variances are requested because the placement of the existing house on the lot relative to the required front and side setbacks represents an extraordinary condition. The configuration at the rear of the existing house, resulting in the need for the wall plane length variance, also represents an extraordinary condition. The need for the front yard retaining wall results from the topography of the property.
2. Approval of the variances is requested because conforming to the Town's building ordinance would cause unusual practical difficulties, and cause undue hardship. Specifically:
 - a. For the front yard setback variance requests: The wing walls at each side of the balcony, and resulting eave overhang, are proposed to encroach over the front setback. These walls form part of the gable that provides coverage to the porch below. The space contained behind the walls that requires a variance is an inhabitable structural element.
 - b. For the side yard setback variance requests: The property has a nonconforming screened porch located 5.7 feet from the east side property line. This results in a very large side yard setback on the west side, making it difficult to renovate the property even when using the existing footprint.
 - c. For the wall plane length variance request: The addition at the rear of the house is proposed to be constructed over the existing structure. The proposed roof lines and smaller articulations included in the plan meet the spirit of the ordinance.
 - d. For the retaining wall variance request: The wall is necessary because the property slopes below street level at the location of the existing driveway. The wall is necessary to retain soil to minimize erosion.
3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. The proposed renovation retains the scale of the existing house and neighborhood. The architect has worked with the existing lines of the house to transition from the existing to the new, using the contour of the existing gable as guidelines. The new porch creates a space that will improve and promote interaction with the community.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The intent of this addition is to provide a transitional space from the street to the house, as well as addressing non-code compliant spaces within the existing house using the existing footprint.
5. The proposed addition does not impair the general plan of the Town. The proposed design took the scale of the existing property and community into consideration. The new gable will not produce a full second story. The new porch will provide a transition from public to private space, which is a prevalent characteristic throughout the neighborhood.

**Town of Chevy Chase
Administrative Variance and Retaining Wall Ordinance**

Resolution No.:
Introduced: January 13, 2016
Adopted:
Effective Date:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO EXPAND THE LIST OF CONSTRUCTION PROJECTS THAT ARE ELIGIBLE FOR ADMINISTRATIVE VARIANCES AND TO ALLOW CERTAIN RETAINING WALLS TO BE CONSTRUCTED WITHOUT A VARIANCE.

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort, and convenience of the citizens of the municipality;

WHEREAS, Maryland Code, Local Government Article, Section 5-211, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits;

WHEREAS, Maryland Code, Land Use Article, Section 20-509 grants to the legislative body of incorporated municipalities in the Maryland-Washington Regional District general power to adopt building regulations for the protection of the public health, safety, and welfare; the preservation, improvement, and protection of lands, water, and improvements in the municipal corporation; and to regulate the construction, repair, or remodeling of buildings on land zoned for single-family residential uses at it relates to fences, walls, hedges, and similar barriers; signs; residential parking; residential storage; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces;

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary;

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 13th day of January, 2016;

WHEREAS, to comply with Maryland Code, Land Use Article, Section 20-509, on the 18th day of January, 2016, a copy of following Ordinance was submitted to the Montgomery County Council for its comments;

WHEREAS, the Montgomery County Council acknowledged receipt of the Ordinance by letter dated _____, 2016, and indicated that the County Council had no comments;

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the Town Council considered the following Ordinance in public session assembled on the ___ day of _____, 2016;

WHEREAS, after receiving a report and recommendation from Town staff, and upon consideration of the testimony and evidence presented at the public hearing, the Town Council finds that expanding the list of construction projects that are eligible for administrative variances, and allowing certain retaining walls to be constructed without a variance, would lessen the costs incurred and time spent by building permit applicants while preserving the intents and purposes of the building regulations;

WHEREAS, the Town Council finds that the ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town.

THEREFORE, BE IT ORDAINED AND ORDERED, this ___ day of _____, 2016, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, this ___ day of _____, 2016, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

Sec. 4-7. - Developmental nonconformities.

A developmental nonconformity may be maintained, altered and repaired, but not replaced, provided that it may not be enlarged beyond the dimensions that existed on May 17, 2008, except in accordance with this chapter. Notwithstanding the foregoing, nonconforming porches, decks,

stoops, steps, stairways, chimneys, bay and bow windows, and similar projections may be maintained, altered, repaired, or replaced provided that they may not be enlarged beyond the dimensions that existed on May 17, 2008, except in accordance with this chapter.

* * *

Sec. 4-51. - Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth, on public property that are devoted to private use.

(a) Excepted as provided below, ~~N~~no structure, wall, fence, guardrail, berm, tree, hedge, shrubbery or any plant growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use. ~~Subject to the provisions of section 4-49, a handrail may be placed on public property devoted to private use upon approval by the town manager.~~

(b) Notwithstanding the above, and ~~S~~subject to the provisions of section 4-49, ~~structures, walls, fences, berms, trees, hedges, shrubbery and other plant growth that are located on public property devoted to private use on July 13, 2007, may be maintained, altered, repaired, but not enlarged or replaced,~~ the following private improvements may be allowed, provided that they: ~~(1) D~~o not extend into sidewalks or roadways so as to interfere in any manner with street trees, other public or private improvements, public utilities, or pedestrian or vehicular traffic on any sidewalk or road; ~~and (2) A~~re maintained in such a manner and at such height that a clear and unobstructed view is available to approaching traffic, both pedestrian and vehicular, and otherwise do not interfere with the public health, safety, and welfare:

- (1) Structures, walls, fences, berms, trees, hedges, shrubbery and other plant growth that are located on public property devoted to private use on July 13, 2007, may be maintained, altered, repaired, but not enlarged or replaced;
- (2) A retaining wall or guardrail located on public property devoted to private use, as of _____, 2016, may be maintained, altered, repaired, and replaced, provided the location is not changed and no dimension is enlarged; and
- (3) A handrail on public property devoted to private use may be installed, maintained, altered, repaired, or replaced.

(c) The town manager shall determine whether there is compliance with the provisions of this section.

~~(d) Notwithstanding the above, and subject to the provisions of section 4-49, a retaining wall or guardrail located on public property devoted to private use may be maintained, altered, repaired, and replaced, provided the location and materials are not changed and no dimension is enlarged.~~

Sec. 4-52. - Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property.

(a) The property owner and the property occupant shall maintain walls, fences, guardrails, handrails, berms, structures, trees, hedges, shrubbery, and other plant growth located on private property so that they:

- (1) Do not, at any time, exceed the maximum height as specified in this chapter;
- (2) Do not project into any public right-of-way so as to interfere in any manner with pedestrian or vehicular traffic;
- (3) Do not obstruct the view of sightlines necessary for safety;
- (4) Do not present a risk of harm to pedestrians and/or vehicles; and
- (5) Do not otherwise present a risk of harm to the public health, safety and welfare.

(b) Front yard walls. No wall that is one (1) foot in height or higher may be constructed in a front yard. ~~A, provided, however, a retaining~~ wall that is less than ~~one (1) foot~~ **thirty (30) inches** in height may be constructed in a front yard provided that it is set back at least two (2) feet from the nearest public ~~improvement~~ **sidewalk** within the public right-of-way **or, if there is no sidewalk, at least six (6) feet from the curb**. In the event a wall is located within thirty (30) inches of another wall, as may be the case in terracing, the walls shall be considered one (1) wall and the height of the wall shall be measured cumulatively. Height is measured in accordance with subsection (f) below.

(c) Front yard fences and berms. No fence or berm may be constructed in a front yard.

* * *

Sec. 4-53. - Nonconforming fences, walls, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property.

(a) Fences, walls, guardrails, handrails, trees, berms, hedges, shrubbery, and other plant growth on private property existing as of November 8, 1986, and not conforming to this article shall be regarded as nonconforming and may be maintained and repaired, but not relocated, altered, or replaced.

(b) Nonconforming fences, walls other than retaining walls, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property which are relocated, altered, or replaced shall comply with all provisions of this article.

(c) Nonconforming retaining walls on private property which are relocated, altered, or replaced shall comply with all provisions of this article, provided, however, a nonconforming retaining wall located in a front yard may be altered or replaced, if the location ~~and materials~~ is not changed and no dimension is enlarged.

* * *

Sec. 4-60. - Variances from requirements of building restrictions.

* * *

(c) *Administrative variances.*

(1) ~~Front yard fences and walls.~~ The town manager and mayor may grant variances as follows **for the following:**

a. New or relocated front yard retaining walls thirty (30) inches or greater in height, provided they are set back at least two (2) feet from the nearest public sidewalk in the public right-of-way or, if there is no sidewalk, at least six (6) feet from the curb;

b. New front yard fences measuring four (4) feet or less in height, having a fenestration of at least thirty (30) percent, not constructed of chain link, and on a corner lot abutting any street or on an interior lot abutting East-West Highway, Connecticut Avenue, or Bradley Lane;

~~b. c. Front yard fences and walls which~~ **in a front yard or in a public right-of-way** that replace an existing fence or wall provided the replacement fence or wall does not materially alter the location or increase the height or length of the fence or wall;

~~(2) Fences and walls in the public right of way.~~ The town manager and mayor may grant variances for replacement fences and walls in public right of way,

d. New or relocated retaining walls less than thirty (30) inches in height in a public right-of-way, provided they are set back at least two (2) feet from the nearest public sidewalk in the public right-of-way or, if there is no sidewalk, at least six (6) feet from the curb;

~~(3) e. Front yard guardrails.~~ The town manager and mayor may grant variances for ~~n~~**New**, relocated, or replacement guardrails, provided the guardrail is set back at least two (2) inches from the retaining wall and located along only portions of the retaining wall measuring thirty (30) inches or more in height;

f. New or relocated steps, stoops, outside stairways, and their roofing; decks, terraces, porches, and their roofing; chimneys, air conditioners, and heat pumps; and/or oriel entrances, vestibules, and balconies, in a front and/or rear yard;

g. New or relocated bay windows in a front and/or rear yard, provided they are no more than one (1) story in height and ten (10) feet or less in width;-

h. Additional width of six (6) feet or less for a driveway, other than a shared driveway, in a front yard and/or in a public-right-of-way;-

i. Extension of an existing wall plane;- and/or

j. Replacement of a structure or portion thereof, provided the location is not changed and no dimension is enlarged.

(43) *Posting requirement.* Fifteen (15) days prior to the town manager and mayor acting upon the administrative variance application, the town shall post the property, **post notice on the town website**, and provide written notification to all adjoining and confronting property owners and to all council members.

(54) If prior to the expiration of the fifteen-day notice period, written objection to the variance application is filed with the town manager, the variance application shall be scheduled for public hearing and heard by the town council in accordance with the provisions of subsection (b) above.

* * *

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this ___ day of _____, 2016, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that:

(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the ___ day of _____, 2016.

ATTEST:

TOWN OF CHEVY CHASE

Vicky Taplin, Secretary

Al Lang, Mayor
Town of Chevy Chase

Bold and Underline indicates new material
~~Strike through~~ indicates material deleted
* * * indicates material unchanged

TOWN OF CHEVY CHASE
PRIVATE TREE REMOVALS AND APPEALS
STANDARD OPERATING PROCEDURES

Tree Law Applicability

- Private tree removals are regulated by Chapter 29 of the Town Code, titled “Urban Forest.”
 - All trees measuring at least 24” in circumference at 4 ½ feet above the ground must receive an approved permit prior to removal.

Standard

- The following trees can be removed with an approved permit:
 - Trees that are not “canopy trees” as defined in the Town’s Urban Forest Ordinance.
 - Canopy trees that are determined to be dead, dying, or in danger of falling, or hazardous to the safety of persons or property.

Permit Application

- The Town’s permit application form is available online or in the Town Office.
 - A permit application should include:
 - contact information for the applicant;
 - the size, species, and location of any tree requested for removal;
 - whether the applicant would like an in-person consultation with the Town Arborist as part of the evaluation of the request;
 - a statement from the applicant indicating whether they believe that the tree is dead, dying, in danger of falling, or hazardous to persons or property; and,
 - any other information that may be useful to the Town in evaluating an application.

Trees that Threaten Imminent Harm to Life or Property

- If, at any time during the permitting process, the Town Arborist finds that the tree threatens imminent harm to life or property, the Town Manager issues an emergency tree removal permit with no mandatory waiting period before the tree can be removed.
 - If an emergency tree removal permit is issued, the Town posts a notice of approval on the property.

Tree Removal Procedures

- Upon receipt of a permit application, the Town Arborist schedules an in-person consultation with the applicant, if requested. The arborist provides a preliminary evaluation of tree condition and can answer questions and discuss tree maintenance options and programs, including the Private Canopy Tree Maintenance Program, that may help in preserving the tree. If, following the consultation, the applicant decides not to

proceed with the removal request, the arborist notes that the request has been withdrawn and provides the application form to the Town Manager for recordkeeping purposes.

- If the applicant does not request an in-person consultation, or if the applicant decides to proceed with the tree removal request following the in-person consultation, the Town posts a notice on the property indicating the address of the property, the species of tree(s) requested for removal, and the date that the request will be evaluated (usually 5 days after posting). The notice also indicates that comments on the proposed removal may be provided to the Town Office within 5 days. Contact information for the Town Office is included on the notice.
 - The Town Manager and arborist consider comments received from residents about proposed tree removals; however, consideration proceeds based on the standards outlined in the Urban Forest Ordinance.
- On the evaluation date posted on the notice, the arborist submits to the Town Manager his written evaluation of the tree based on the standards listed in the ordinance.
 - The arborist evaluates removal requests based on conditions observable from the ground. If the arborist believes that there may be hazardous conditions that are not observable from the ground, he may advise the applicant of options for having the condition of the tree further documented by other certified arborists prior to a final decision.
- If the Town Arborist does not find a canopy tree proposed for removal to be dead, dying, in danger of falling, or hazardous, the Town Manager or his designee consults with the property owner about the requested tree removal. Based on additional information provided in the consultation and the information included in the application, the Town Manager may find that the tree meets the standards for removal in the ordinance and approve the permit request. During this evaluation, the Town Manager, in consultation with the Town Arborist, may suggest maintenance options that could allow the tree to be preserved and advise the applicant of any tree maintenance assistance programs that may be available.
 - If the Town Manager determines that a tree removal permit should be issued for a canopy tree that the Town Arborist does not find to be dead, dying, in danger of falling, or hazardous, the permit is issued with a condition that one reforestation tree be installed on the subject property for each canopy tree removed or an impact fee be paid in accordance with the approved Council resolution. The Town Manager consults with the applicant about their preference for reforestation or payment of an impact fee before granting such a permit.
 - In the event that the payment of an impact fee is required, the Town collects the impact fee prior to issuing the permit.
 - Trees planted by the Town through the Native Canopy Tree Planting program are not considered to be reforestation trees required under the Urban Forest ordinance.

- Following permit consideration, the notice sign posted on the property is updated to indicate the resolution of the permit request and, if the permit is approved, the earliest permissible removal date (at least 7 days from the approval date). The reason for the decision is detailed in the permit, on the notice sign on the property, and posted on the Town website.
- If approved, the applicant is provided a copy of the permit for their records. For permits approved without reforestation requirements, the Town includes information about the Town's Native Canopy Tree Planting program to educate residents about opportunities for tree replacement.
- If denied, the applicant is provided a copy of the denied permit for their records as well as detailed appeal information.

Recordkeeping

- The Town keeps records of all permitted tree removals, including the location, size, species, basis for removal, tree condition, any public comments received, and any required reforestation trees to be planted or impact fees collected.
 - The Town maintains a list of trees planted via the Native Canopy Tree Planting program, and identifies, where possible, if they were planted following the removal of a tree.
 - A list of approved and denied tree removal permits is provided to the Council each month.
 - The Town ensures that reforestation trees are planted and maintained through the two-year warranty period.

Appeal Procedures

- An appeal of the denial of a tree removal permit application is considered by the Town Council through a public hearing process.
 - Appeals must be filed within 30 days of the denial of a tree removal application.
 - Upon receipt of a completed appeal application, a hearing date is scheduled.
 - At least 15 days in advance of the hearing, the appeal record is delivered to the applicant and to all abutting and confronting properties, and a notice of public hearing is placed on the subject property.
 - Residents may present information or have experts testify at the hearing.
 - The Council considers 9 factors in evaluating an appeal:
 - The reasons cited by the applicant for wanting to remove the canopy tree.
 - The applicant's intention to plant replacement trees, with consideration of the number, size and desirability of species, and with a minimum goal of replacing the canopy tree to be removed.
 - The applicant's intention to retain and protect existing trees.
 - The facts in support or opposition presented by town residents.

- Residents can testify at the public hearing or can provide written comments in advance of the hearing.
 - Information provided by the Town Arborist.
 - The extent to which no alternative to canopy tree removal exists that would allow the proposed development, construction, or land use otherwise permitted under the town building code.
 - The desirability of preserving a canopy tree by reason of its age, size or outstanding qualities, including uniqueness, rarity or species.
 - The overall effect on the tree canopy of the adjacent properties, the neighborhood and the town.
 - The aggregate or cumulative effect of the proposed canopy tree removal(s), including any and all canopy tree removals from the property within the prior two-year period.
- Following a public hearing the Council may affirm the denial of a permit application, may direct the Town Manager to issue a permit, or may direct the Town Manager to issue a permit upon such conditions, terms or restrictions as the Council may deem necessary to accomplish the intent and purposes of the Urban Forest Ordinance.

Town of Chevy Chase
Resolution to Establish Canopy Tree Removal Impact Fee and
Designate Acceptable Reforestation Trees

Resolution No.:
Adopted:
Effective Date:

WHEREAS, the Natural Resources Article, Title 5, Subtitle 4, Part IV of the Maryland Code authorizes a municipal corporation to implement a local urban and community forestry program within its jurisdiction; and

WHEREAS, by Ordinance No. _____, the Town Council adopted amendments to the Urban Forest Ordinance, Chapter 29 of the Town Code;

WHEREAS, Section 29-6(e) of the Town Code, as amended, provides that if the Town Manager determines that a tree removal permit should be issued for a canopy tree that, in the opinion of the Town Arborist, does not meet the conditions in section 29-6(a), one (1) reforestation tree must be installed on the subject property for each canopy tree removed, or an impact fee must be paid, as established by the Town Council by resolution;

WHEREAS, the Town Council finds that designating the acceptable reforestation trees and the impact fee, as set forth in this Resolution, is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the Town.

NOW, THEREFORE, it is, on this _____ day of _____, 2016 by the Town Council of the Town of Chevy Chase:

RESOLVED, that a reforestation tree required to be installed under Section 29-6(e) of the Town Code, as a condition to a tree removal permit, shall be one of the species identified in Section 29-3(a)(1) of the Town Code, as amended; and it is further

RESOLVED, that the impact fee that may be imposed under Section 29-6(e) of the Town Code, as amended, shall be Seven Hundred Fifty Dollars (\$750), for each canopy tree removed; and it is further

RESOLVED, that the foregoing shall be effective as of this ___ day of _____, 2016.

I, Vicky Taplin, Secretary of the Town Council of the Town of Chevy Chase, hereby certify that the foregoing Resolution was adopted by the Town Council at its meeting on the _____ day of _____, 2016.

Vicky Taplin, Secretary

Date: _____