

TOWN OF CHEVY CHASE  
COUNCIL MEETING  
TOWN HALL  
March 11, 2015

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
  - A. Call to Order
  - B. Pledge of Allegiance
  - C. Public Comments (General)
  - D. Public Comments on FY16 Budget
  
- II. VARIANCE HEARINGS (7:15-7:45 p.m.)
  - A. [Muse Development, 4109 Rosemary Street, Front Yard Setback](#)
  
- III. COUNCIL ACTIONS (7:45-8:00 p.m.)
  - A. [Approval of Standard Operating Procedures for Private Tree Removals and Appeals and Public Tree Removals and Maintenance](#)
  
- IV. DISCUSSIONS & PRESENTATIONS (8:00-9:45 p.m.)
  - A. Water Drainage Ordinance – Land Use Committee
  - B. [Financial Advisory Services Proposal](#)
  - C. [Lawton Center Traffic Study Proposals](#)
  - D. [New Street Light Requests](#)
  
- V. OTHER BUSINESS (9:45-10:00 p.m.)
  - A. Approval of Minutes of February 11, 2015 Council Meeting & Executive Session
  - B. Approval of February 2015 Financial Report
  - C. [Town Manager's Report](#)
  - D. New Business
  
- VI. ADJOURNMENT (10:00 p.m.)

# STAFF REPORT

II-A

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Muse Development, 4109 Rosemary Street, Front Yard Setback  
DATE: March 11, 2015

## **Variance Requested:**

Stephen Muse, of Muse Development, 4109 Rosemary Street, is proposing to construct a two story addition on the north side of the existing house. The proposed addition projects 8.6 feet into the 34.6 foot front yard setback along Stanford Street. Town building regulations do not allow this addition to project into a front yard setback; therefore a variance of 8.6 feet is required.

The proposed addition measures 13 feet wide and 2.3 feet deep, and is located entirely within the front yard setback.

## **Background:**

As of March 4, the Town has received one phone call from Stan Sobel, 4109 Stanford Street, expressing support for the approval of the variance. Any additional 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 Claims for the Variance Request:**

1. The variance is requested because the lot is oddly shaped and unusually shallow. The lot has three front yards with large front setbacks, limiting the buildable area on the lot. The 34.6 foot EBL calculation on the Stanford Street frontage is unusually large because the two adjacent lots are not included in the EBL calculation (one house fronts on Rosemary Street and the other property is set back less than 25 feet from the front property line).
2. Approval of the variance is requested because conforming to the Town's building ordinance would be impractical, cause peculiar or unusual practical difficulties, and cause undue hardship. Given the irregularities of the property, no additions would be allowed. The two-story bay addition does not require a variance from Montgomery County because the County only applies the EBL to new structures – not additions.
3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. The adjoining property is a through lot, with the house fronting on Rosemary Street. The subject property faces Rosemary Triangle. The proposed addition/renovation will greatly improve the exterior appearance of this important residence.

4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The addition is dimensioned at the minimal size to allow for required clearances for the first floor kitchen and second floor master bathroom.
5. The proposed addition does not impair the general plan of the Town. The variance is only requested due to the irregularities of the property. The alterations to the exterior will greatly improve the appearance of this prominent residence. While the plans include the proposed exterior bay addition in the new kitchen and master bathroom, they also include the removal of a bay from the existing kitchen.

# MEMORANDUM

III-A

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Approval of Standard Operating Procedures for Private Tree Removals  
and Appeals and Public Tree Removals and Maintenance  
DATE: March 11, 2015

At the March 11 meeting, Council is scheduled to approve the attached Standard Operating Procedures for Private Tree Removals and Appeals and Public Tree Removals and Maintenance.

At its January 12 work session on the Town's Urban Forest Ordinance, Council directed staff to prepare these procedures. Council discussed the draft procedures and related resident comments at its February 11 meeting and directed staff to make modifications, as agreed to by Council.

**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 dead, dying, or in danger of falling
  - Trees that are hazardous to the safety of persons or property
  - Trees on the Town’s approved list of undesirable tree species

**Permit Application**

- The Town’s permit application form is available online or in the Town Office.
  - A permit application should include the size, species, and location of any tree requested for removal, as well as any other information that may be useful to the Town in evaluating an application.

**Tree Removal Procedures**

- Upon receipt of a tree removal permit application, the Town Arborist shall visit the property to determine if the tree threatens imminent harm to life or property. The Arborist evaluates removal requests based on conditions observable from the ground.
  - If the Arborist determines that the tree threatens imminent harm to life or property, the Town Manager shall issue an immediate tree removal permit.
    - If an immediate tree removal permit is issued, the Town will post a notice of emergency approval on the property.
  - If the Arborist determines that the tree does not pose an immediate threat:
    - 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 given in the notice, the Arborist submits to the Town Manager his written evaluation and recommendation based on the

standards listed in the ordinance. The Town Arborist may recommend approval, denial, or approval with conditions. 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.

- The Town Manager determines if the permit shall be issued. 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.
- 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, tree condition, and any public comments received.
  - A list of approved and denied tree removal permits is provided to the Council each month.

### **Appeal Procedures**

- An appeal of the denial of a tree removal permit application is considered by the Town Tree Board 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 based on the availability of the applicant and the Tree Board.
    - At least 7 days in advance of the hearing, the appeal record is delivered to the Tree Board 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 Board 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 Tree Board has created a list of acceptable replacement tree species.
    - 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 Tree Board 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 Tree Board may deem necessary to accomplish the intent and purposes of the Urban Forest Ordinance.

**TOWN OF CHEVY CHASE**  
**PUBLIC TREE REMOVALS AND MAINTENANCE**  
**STANDARD OPERATING PROCEDURES**

**Roadside Tree Law Applicability**

- The Town holds an annual Roadside Tree permit from the State Department of Natural Resources.
- As a requirement of that permit, all tree removal and maintenance work done in the Town must meet the standards of the Roadside Tree Law.
  - All tree work must:
    - Eliminate a hazard to property, public safety, or health;
    - Improve or prevent a deteriorated tree condition; or
    - Improve the general aesthetic appearance of the right-of-way.

**PUBLIC TREE REMOVALS**

**Standard**

- The standards contained in the Town's Urban Forest Ordinance used to evaluate private trees for removal also apply to public tree removals. Trees that are removed are:
  - Dead, dying, or in danger of falling; or
  - Hazardous to the safety of persons or property
- If possible, trees are pruned of hazardous conditions and not removed. In cases where extreme pruning is necessary, the final aesthetic appearance of the tree is considered in determining whether the tree is retained.

**Identifying Trees for Removal**

- Trees in need of removal are identified in several ways:
  - The Town arborist performs a biannual hazardous tree survey. This survey identifies hazardous trees and conditions as observable from the ground.
    - A list of trees identified for removal as a result of the survey is provided to the Town Manager.
      - The list includes the location, size, species, and a detailed written explanation of the condition of each tree.
      - The list prioritizes the trees for removal.
  - Aside from the biannual survey, trees may die or become hazardous at any time as observed by the Town arborist or reported to the Town. After evaluation, the Town arborist informs the Town Manager of such trees identified for removal and provides a written justification for their removal. With the information provided by the Town arborist, the Town Manager decides whether to remove the tree.
  - The Town's tree contractor may identify hazardous conditions that are not observable from the ground.
    - If the Town arborist is unsure about the condition of a tree's canopy following ground observation, he may request that the Town's tree

maintenance contractor climb the tree to determine if hazardous conditions exist.

- Hazardous conditions may be discovered by the Town's contractor while performing other routine pruning.
- Evidence of hazard presented by residents or independent arborists is considered by the Town arborist in making a determination of a tree's condition.

### **Tree Removal Procedures**

- The removal of dead or hazardous trees is prioritized and scheduled by the Town arborist in coordination with the Town's tree maintenance contractor
  - A notice, visible from the street, is posted on each tree at least seven days in advance of removal.
    - The notice includes the species of the tree, estimated removal date, an explanation of the need for removal. The notice also states that a resident may send comments on the proposed removal to the Town Office before the estimated removal date, and provides contact information for the Town Office. The Town Office considers comments from residents in deciding whether to proceed with the removal; however, work proceeds under the standards outlined in the State Roadside Tree Law.
    - Exceptions:
      - No posting is required in the case of an emergency condition that threatens imminent harm to life or property
      - No posting is required for new trees that have died within two years of planting.
  - No Parking signs are posted, as needed, at least one day in advance of the scheduled work.
  - If the proposed removal requires closure of the road, residents in the affected block are delivered a notice of the closure at least two days in advance of the scheduled work.
- Stump Removal
  - The Town generally removes stumps twice per year (in the fall and spring) in order to allow for proper restoration of the public right-of-way.
  - No Parking signs are posted, as needed, at least one day in advance of the scheduled work.

### **Public Tree Removal Recordkeeping**

- The Town keeps records of all public tree removals, including the location, size, species, tree condition, and any public comments received. Additional information, if any, about the condition of the tree observed during removal is noted.
  - A list of public tree removals is provided to the Council each month.

## **PUBLIC TREE MAINTENANCE**

### **Standard**

- The Town maintains all public trees in a professional manner, following generally accepted industry standards for tree care (ANSI 300 standards).

### **Identifying Trees to be Pruned**

- Trees in need of pruning are identified by ground inspection:
  - The Town arborist inspects Town trees on an ongoing basis.
  - Hazardous conditions can be identified at any time as observed by the Town arborist or reported to the Town.
  - Maintenance pruning is targeted to eliminate deadwood, damaged branches and to elevate trees over structures.
  - Small trees are developmentally pruned to elevate branches and improve the tree structure.
  - The arborist evaluates trees to ensure that proper sidewalk and street clearance is maintained according to the standards published on the Town website.

### **Tree Pruning Procedures**

- Pruning work is prioritized and scheduled by the Town arborist in coordination with the Town's tree maintenance contractor. The Town arborist provides written work orders to the Town's tree maintenance contractor for any work to be done. The tree maintenance contractor keeps the work order on site during the performance of any tree maintenance work. If the contractor has questions about the work to be done while on site during the course of pruning, the contractor will not proceed without clarification from the Town arborist.
  - No Parking signs are posted, as needed, at least one day in advance of the scheduled work.
  - If the proposed pruning work requires closure of the road, residents in the affected block are delivered a notice of the closure at least two days in advance of the scheduled work.
- The Town arborist regularly inspects pruning work for completeness, quality, and neatness.

### **Tree Pest Care**

- Pesticides (spraying) are only used with the prior approval of the Town Manager in consultation with the Town Council.
- If approved, notice is delivered to the affected residents at least seven days in advance of the proposed work.
- No Parking signs are posted, as needed, at least one day in advance of the scheduled work.

### **Tree Pruning Recordkeeping**

- The Town keeps a file of all pruning work orders for two years.

### **PEPCO REMOVALS AND MAINTENANCE**

- PEPCO is mandated to prune and remove trees to improve electric reliability in conformance with Maryland Public Service Commission standards.
- PEPCO is required to notify the Town at least 2 months in advance of any work. The Town arborist schedules a meeting with PEPCO's arborist to review the proposed work prior to commencement. The Town works with PEPCO to minimize damage to trees resulting from line clearance, and requires that PEPCO notify the Town of the exact dates line clearance work is scheduled to be done.
- The Town arborist regularly inspects PEPCO pruning for completeness, quality, and neatness.

# MEMORANDUM

IV-B

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Financial Advisory Services Proposal  
DATE: March 11, 2015

The Town received one proposal in response to the Financial Advisory Services Request for Proposal (RFP). The RFP and proposal are attached. Council is asked to review this proposal and decide how to proceed.

# MEMORANDUM

IV-C

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Lawton Center Traffic Study Proposals  
DATE: March 11, 2015

The Town received four proposals in response to the Lawton Center Traffic Study Request for Proposal (RFP). The RFP and proposals are attached. Council is asked to review these proposals and decide how to proceed. If the Council chooses to proceed with a traffic study, staff recommends retaining AMT, based on the firm's qualifications, references, and cost proposal.

# MEMORANDUM

IV-D

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: New Street Light Requests  
DATE: March 11, 2015

At its March meeting, the Council is scheduled to discuss how to proceed with consideration of three proposed street lights that have received resident opposition.

Over the past several months, the Town has received nine requests for new street lights in Town. Six of these lights were unopposed by residents who live in close proximity to them. These lights have been ordered and will be installed soon. Three of the requested street lights were opposed by proximate residents.

Councilmember Lang suggested that the PSC meet with the residents in the blocks where the lights were opposed. At its January 15 meeting, the PSC discussed this issue and decided not to meet with the residents and to recommend that the Town install these lights despite resident objection, with the rationale that public safety in these areas (darkness, crime) outweighs individual resident concerns.

Attached are maps of the three street lights that are opposed, with identification of neighbors who support and oppose the installation. Also attached is a copy of the Town's new street light policy.

# MEMORANDUM

V-C

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Town Manager's Report  
DATE: March 11, 2015

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:**

- Scheduled meeting with Roger Berliner re. CCST.
- Worked with Public Services Committee and traffic engineer on emergency vehicle access in the 7000 block of Beechwood Drive and on West Avenue traffic plan.
- Met with Election Board and League of Women Voters re. upcoming Town election.
- Worked with Community Relations Committee and Climate & Environment Committee on special events.

## **Special Projects:**

- Met with Land Use Committee to discuss Town's Water Drainage Ordinance.
- Revised standard operating procedures for private tree removals and appeals and public tree removals and maintenance.
- Attended meetings related to the proposed Purple Line project and the Bethesda Downtown Plan.
- Worked with attorney on pending litigation.
- Ratified contract for tot lot at Lawton Center playground.
- Began preparing spring tree planting list.
- Conducted interviews for Management Assistant position.
- Coordinated with PEPCO on installation of new street lights
- Continued working on East-West Highway lighting project.
- Continued implementation of street signage upgrade and replacement project.
- Sent thank you letters to PEPCO and NRG officials.
- Organized Alternatives to Trash and Treasures (spring).