

TOWN OF CHEVY CHASE  
COUNCIL MEETING  
TOWN HALL  
September 10, 2014

OPEN SESSION TO VOTE TO ENTER CLOSED SESSION (6:30 p.m.)

The Town Council will meet in open session for the purpose of voting to enter a closed session pursuant to the Open Meetings Act, Maryland Code, State Government Article, Section 10-508(a)(7) to consult with counsel to obtain legal advice regarding building code enforcement; and pursuant to Section 10-508(a)(8) to consult with staff, consultants, or other individuals about pending or potential litigation related to the public right-of-way.

REGULAR MEETING (7:00 p.m.)

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
  - A. Call to Order
  - B. Pledge of Allegiance
  - C. Public Comments
  
- II. VARIANCE HEARINGS (7:15-8:30 p.m.)
  - A. [Okuliar, 6808 Hillcrest Place, Rear Yard Setback](#)
  - B. [Fidler, 4108 Rosemary Street, Front Yard Setback and Wall Plane Length](#)
  - C. [Brault/Albert/CC Green Vision, 7215/7221 Ridgewood Terrace & Outlot A, Right-of-Way and Front Yard Fence](#)
  
- III. PUBLIC HEARINGS (8:30-9:00 p.m.)
  - A. [Public Hearing on Rainscapes Rebate and Technical Assistance Program](#)
  
- IV. DISCUSSIONS & PRESENTATIONS (9:00-9:45 p.m.)
  - A. SSE Report re. Purple Line Ridership Data
  - B. [Request for Proposal \(RFP\) for Lawton Center Traffic Study](#)
  - C. [Consulting Water Management Program](#)
  - D. [2014 Community Survey](#)
  
- V. GENERAL/NEW BUSINESS (9:45-10:00 p.m.)
  - A. Approval of Minutes of July 9, 2014 Council Meeting and Executive Session and August 27, 2014 Executive Session
  - B. Approval of July-August 2014 Financial Report
  - C. Approval of FY14 Operating Budget Transfers
  - D. [Town Manager's Report](#)
  - E. New Business
  
- VI. ADJOURNMENT (10:00 p.m.)

## STAFF REPORT

II-A

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Okuliar, 6808 Hillcrest Place, Rear Yard Setback  
DATE: September 10, 2014

### **Variance Requested:**

Alexander and Catherine Okuliar, 6808 Hillcrest Place, propose to construct a rear addition to their house. The addition projects 5 feet into the 20 foot rear yard setback. Town building regulations do not allow an addition to project into a rear setback; therefore, a variance of 5 feet is required. The area of the addition that requires a variance measures approximately 59 square feet.

### **Background:**

The proposed addition requires a County variance, which was approved in June 2014.

As of September 3, the Town has not received any public comments about the variance request. 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 requests.*

### **Applicant Claims for the Variance Request:**

1. The variance is requested because the property is exceptionally shallow, has unusual topographical features and has other extraordinary conditions. The property is only 70 feet deep and has a total area of 5,255 square feet, making it much smaller than any adjoining properties. In addition, the existing home is only 1 foot from the rear setback line.
2. Approval of the variance is requested because conforming to the Town's building ordinance would be impossible, impractical, cause peculiar or unusual practical difficulties, and cause undue hardship. The addition is intended to create just enough space to enlarge the existing 94.3 square foot kitchen in order to accommodate safe oven clearance and space for a 36" refrigerator.
3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. The addition is planned for the rear yard and will be obstructed from sight from the adjoining properties, due in part to screening by trees and other landscaping.

4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. Currently, the existing kitchen can only accommodate a 30” refrigerator, which allows for only 61.6 square feet of “working” kitchen area.
5. The request does not impair the general plan of the Town. The addition adds only 70.5 square feet to the house, but will almost double the amount of usable kitchen space for the home. Due to the addition’s modest size, it will be largely unnoticed by all adjoining properties.

# STAFF REPORT

II-B

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Fidler, 4108 Rosemary Street, Front Yard Setback, Wall Plane Length  
DATE: September 10, 2014

## **Variance Requested:**

Philip and Jody Fidler, 4108 Rosemary Street, are proposing to make improvements to their home. The project requires the approval of variances, as follows.

- The applicants propose to construct a screened porch addition to the side and rear of the existing house. The proposed addition would create a wall plane measuring 40.3 feet long on the west façade of the house. The proposed wall plane does not have an offset or articulation that measures at least two feet deep and five feet long. Town building regulations require that a wall plane along any façade of a house cannot exceed 34 feet without the necessary offset; therefore a variance is required.
- The applicants propose to construct a front portico. The front portico, which is comprised of a stoop and a roof, projects 9.8 feet into the 42.3 foot established front yard setback. Town building regulations allow a stoop to project 9 feet into a front yard setback; therefore a variance of 0.8 feet is required for the stoop. Town building regulations allow a roof over a stoop to project 3 feet into a front yard setback; therefore a variance of 6.8 feet is required for the roof.

## **Background:**

As of September 3, the Town has received the attached correspondence regarding the variance request. 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 requests.*

## **Applicant Claims for the Wall Plane Length Variance Request:**

1. The variance is requested because the placement of the existing house on the lot represents an extraordinary condition. The house is too close to the minimum side yard setback to allow for an outward articulation of the wall plane. (*Staff note: Because the house is more than 7 feet, but less than 8 feet, from the side property line, the code allows this addition to be constructed as long as it is no closer to the side property line than the existing house.*)
2. Approval of the variance is requested because conforming to the Town's building ordinance would be impossible, impractical, cause peculiar or unusual practical

difficulties, and cause undue hardship. The screened porch is a one-story structure intended to allow the owners to sit/eat without bugs. Articulating the wall plane inward would be impractical and unsightly, and would make the space too narrow to be usable given the alignment of the existing office and living room door.

3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. Constructing the porch with a continual wall plane from the existing office wall helps the neighbors as it will be more attractive than a porch constructed with a bizarre articulation. It adds symmetry to the house and is only one-story in height. The screening will not block sightlines, and the change in materials (siding to screening) will provide architectural interest. The addition will cover an unsightly patio, and the view is screened from the neighbors by a tall fence. In addition, the proposed porch will be lower than the neighbor's house on the adjacent property.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. Any required articulation would be peculiar anywhere it could be placed along the side of the house and would be both an eyesore and would render the space useless for eating or sitting because it would be too narrow.
5. The proposed screened porch does not impair the general plan of the Town because it is a one-story feature, behind a fence, lower than the neighbor's house, and provides architectural interest. Continuing the existing wall plane adds symmetry to the home and protects the neighbors from an unnecessary feature that would be a peculiar eyesore.

#### **Applicant Claims for the Portico Variance Requests:**

1. The variance is requested because the placement of the existing house on the lot represents an extraordinary condition. Due to the existing location of the house on the lot, it would be impossible to add any porch covering without a variance.
2. Approval of the variance is requested because conforming to the Town's building ordinance would be impossible, impractical, cause peculiar or unusual practical difficulties, and cause undue hardship. Because there is no existing covered entrance, the owners' packages get destroyed by weather, and visitors have no protection from poor weather. The proposed portico also will beautify the appearance of the house.
3. The proposed addition will not be detrimental to the use and enjoyment of neighboring properties. The portico adds curb appeal to the house, block, and neighborhood and provides cover for those who visit.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship.

5. The proposed portico does not impair the general plan of the Town. It will be well set back from the street, is small, open, and attractively designed to provide cover for visitors and packages.

# STAFF REPORT

II-C

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Brault/Albert/CC Green Vision, 7215/7221 Ridgewood Terrace & Outlot A, Right-of-Way and Front Yard Fence  
DATE: September 10, 2014

## **Variance Requested:**

Tom and Bethann Brault, 7215 Ridgewood Terrace; Ed and Stephanie Albert, 7221 Ridgewood Terrace; and CC Green Vision, LLC, the owner of Outlot A, are requesting a variance from Town building regulations to construct a fence in the public right-of-way adjacent to their properties. The fence also is proposed to extend into the front yard of Outlot A and through a portion of the front yard of 7221 Ridgewood Terrace. The proposed fence would connect to an existing fence located in the side yard of 7221 Ridgewood Terrace. The proposed fence is shown in red on the attached site plan. Town building regulations prohibit fences from being constructed in public rights-of-way and in front yards; therefore, variances are required.

The fence is proposed to be a split rail fence backed with wire mesh, with a maximum height of 48". Two gates are proposed to be included as part of the fence in the public right-of-way.

## **Background:**

This is a continuation and modification of the variance requests previously filed by the Alberts and CC Green Vision. The Braults' previously filed request was heard at the March 12, 2014 meeting. A copy of that decision, and the record from the prior case, is attached. A transcript from the March 12, 2014 hearing also is attached. On Saturday, August 23, 2014, stop work orders were issued in response to the unpermitted construction of a fence in the right-of-way abutting the subject properties, as reflected in the attached correspondence.

As of September 3, the Town has received the attached correspondence regarding the variance request. In addition, the Town received a phone call from Hiroko McCamey, 7213 Ridgewood Avenue, in support of the requested 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 requests.*

## **Applicant Claims for the Variance Request:**

1. The variance is requested because the property is unusually shaped, has unusual topographical features, and has extraordinary site conditions. The Town required the removal of a grandfathered fence. Over half of the usable lot is encumbered with a

Forest Conservation Easement and retention pond. The Town removed portions of the fence. *(Staff note: In March 2014, several of the few remaining sections of the fence in front of 7215 Ridgewood Terrace had fallen. There were exposed nails and rotten boards very near the sidewalk. Because of the public safety issues involved, staff contacted Mr. Brault to request removal of the fence per the permit condition. Mr. Brault indicated that he did not have anyone to remove the fence and asked if the Town could assist. The fence was removed by the Town's maintenance crew. A photo of the fallen fence and an e-mail from Mr. Brault asking the Town to remove the fence are attached.)*

2. Approval of the variance is requested because conforming to the Town's building ordinance would be impractical, create an unusual practical difficulty, and cause undue hardship. Since the Town required removal of the fence, trespassing has been rampant. The trespassing completely stopped when the temporary plastic fence was installed.
3. Approval of the variance will not be detrimental to the use and enjoyment of neighboring properties. The fence would be less restrictive than the fence that existed prior to the construction. A split-rail fence maintains an open feel and is consistent with neighboring properties.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. A split-rail fence is much less restrictive than what was in place, maintains an open feel, and is consistent with neighboring properties.
5. The request does not impair the general plan of the Town. In addition to the above points, the applicants could plant the space and maintain it as required by the Town Code.

# MEMORANDUM

III-A

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Public Hearing on Rainscapes Rebate and Technical Assistance Program  
DATE: September 10, 2014

At the September 10 meeting, Council is scheduled to hold a public hearing on a Rainscapes Rebate and Technical Assistance Program. The proposal from the Climate and Environment Committee is attached.

## **Proposal for a Rainscapes Rebate and Technical Assistance Program**

July 2, 2014

### **Rationale:**

The Montgomery County RainScapes Rewards program provides County property owners with technical assistance and financial incentives to implement landscape projects that reduce stormwater runoff volume and improve water quality on properties within the County. It was developed and is administered by Montgomery County's Department of Environmental Protection (DEP) to respond to State and County requirements to reduce pollution and degradation of local waterways and the Chesapeake Bay.

The Town of Chevy Chase is a RainScapes targeted Neighborhood (the Neighborhood) because of its stormwater contribution to the degraded Coquelin Run and Rock Creek watersheds. In the Spring of 2014, DEP started a program that performs individual site evaluation and design workshops on eligible landscape techniques for Town residents who want to participate. Projects completed in conformity with RainScapes requirements are eligible for DEP rebates.

Even with the technical assistance provided by the County, many residents are finding the process of using the site assessment and getting to the next steps of design, plant selection, and installation to be complex, cumbersome, overwhelming, and cost-prohibitive. In order to help as many Town residents as possible realize their projects, the Climate and Environment Committee proposes a three-part program that will build upon and supplement the County's efforts and help our residents solve stormwater problems site by site, in numbers that have measurable results on a neighborhood scale. The first part will provide technical assistance to the homeowner, the second will provide a 1:1 matching rebate, and the third part will provide additional compensation for the most expensive project type – removing pavement and replacing it with a permeable substitute.

### **Program Explanation:**

1. Part 1 - Landscape Technical Assistance
  - a. The technical assistance provider (Town's Provider) will be a certified landscape professional, contracted by the Town, who has completed RainScapes training and successfully installed a number of RainScapes approved projects.
  - b. The Town will offer up to 8 hours of additional technical assistance to the homeowner. This assistance will commence after the homeowner has completed the three-part process that DEP conducts for the Neighborhood and is intended to help the homeowner finalize a project design, submit a RainScapes Rewards project application to DEP, and hire an installation contractor. The homeowner must participate in the following DEP process to be eligible for the technical assistance from the Town:
    - i. Sign up for and participate in a RainScapes Site Assessment
    - ii. Obtain the Site Assessment report from DEP RainScapes staff
    - iii. Attend a follow-up Site Assessment and Design workshop

- c. Technical assistance provided by the Town's Provider will consist of additional design consultation, assistance with plant selection, assistance with submitting the RainScapes Rewards Rebate application to the County, interviews of any contractors, and oversight of the installation process.
  - d. The Town's Provider will be compensated at \$100/hour for up to 8 hours of consulting time and up to 2 hours of travel time, totaling up to \$1000 available to each eligible household.
2. Part 2 – Matching Rebate
- a. This part of the program will operate similarly to the home energy efficiency improvement rebates offered by the Town from 2009-2012.
  - b. All projects must adhere to the County RainScapes Rewards rebate program review and approval process, including application submission and preliminary inspection, application approval by DEP prior to installation, final inspection, and rebate documentation and approval. After completion of the installation, the homeowner will arrange for the final inspection by DEP RainScapes staff and submit all required documentation to DEP, including a signed Property Owner Agreement and receipts. DEP will rebate the Owner after determining that the project meets the applicable criteria.
  - c. The homeowner will then submit the paid rebate from DEP to the Town for the matching rebate. The Town match will at no point exceed the total cost of the project, based on documentation and receipts submitted to DEP as part of the rebate process.
  - d. Most rebates from DEP are between \$1200-\$2500 per household, depending on the project type, and number of projects. They usually cover about 1/3-1/2 of the project cost for contractor-installed projects, depending on the type of project.
3. Part 3 – Town Pavement Replacement Rebate
- a. RainScapes surveyed the Town and identified a high number of downspouts that are “directly connected”, meaning the downspouts drain directly to the street, frequently across the driveway. The Pavement Replacement Rebate funds would provide an additional incentive above the County's existing permeable paver rebate, to cover the additional expense of removing the existing paving and replacing it with a surface that allows water infiltration.
  - b. For removal and replacement, a 500 square foot driveway costs approximately \$11,000 (based on average costs to date of projects installed through the County RainScapes Rebate program). The County rebate covers approximately 25% of the average cost (depending on project scope, size, and type).
  - c. In some instances, because of tree roots or utility lines, other ways of infiltrating water from a diverted downspout are not feasible and a pavement replacement is the best option.
  - d. An additional \$1000 rebate from the Town is proposed for this type of project. The Town's Pavement Replacement Rebate would follow the same process outlined above and all projects will adhere to the County's review and approval process.

**Budget:**

This budget assumes a 3-year program with approximately 30 participants each year. For budget purposes, we have averaged the rebates for Part 2 at \$2000.

Annual Cost

Part 1 – Landscape Technical Assistance	
30 households at \$1000	\$30,000
Part 2 – Matching Rebate	
30 households at \$2000	\$60,000
Part 3 –Pavement Replacement Rebate	
10 households at \$1000	<u>\$10,000</u>
 Total Annual Cost	 \$100,000

End

# MEMORANDUM

IV-B

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Request for Proposal (RFP) for Lawton Center Traffic Study  
DATE: September 10, 2014

At the September meeting, Council is scheduled to discuss a draft Request for Proposal (RFP) for an engineering study to address cut-through traffic in the Lawton Center parking lot.

At its June meeting, Council discussed a proposal from the Public Services Committee (PSC) for this study and directed staff to draft a RFP.

Attached are the PSC proposal and a draft RFP for Council review.

To: The Town of Chevy Chase Town Council

From: David B. Eason, Chair Public Services Committee

Re: Lawton Center Cut Thru Traffic

Date: May 19, 2014

The PSC formally requests that a traffic study be implemented to address the Lawton Center "cut thru" traffic issue. We have had preliminary discussions with Dan Lovas on this and he is willing to prepare a formal proposal to obtain traffic counts once the Council approves same. The reason(s) for requesting the study are as follows:

- The cut thru traffic poses a danger to residents and children
- The Lawton Center parking lot is not a street
- Accidents caused by cut thru traffic pose a potential liability to the Town
- We need to do traffic counts in order to determine the number of vehicles that cut thru the parking lot during specific hours (specifically between the weekday hours of 4 PM to 6 PM)
- After completion of the study, the PSC will make a formal recommendation(s) to the Council on the study conclusions/recommendations
- The PSC recommends that the study be implemented before the summer holidays and be done on a Tuesday, Wednesday and Thursday from 7 AM to 7 PM
- VHB has provided (2) cost estimates for the traffic study: 1) Cut Thru Study- One camera to count total number of vehicles entering/exiting the parking lot and the number of vehicles cutting thru the parking lot. The cost for this is approximately \$110/hour so a 36 hour study will cost about \$4K. This is the simplest approach. 2) Origin- Destination Study- Two cameras are used (one at each end of the parking lot) with the footage being used to compare license plates of vehicle's entering/exiting each driveway to identify cut thru traffic. This cost is about \$215 per hour or approximately \$7,700. On top of the costs of data collection would be VHB's time to review and summarize the data for PSC review
- The PSC requests that the Council be polled via email so that permission can be granted to have the study done in early June before the summer holiday's

Thank you for your attention to this matter. Please let me know if you require any additional information at this time.

# MEMORANDUM

IV-C

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Consulting Water Management Program  
DATE: September 10, 2014

At the September meeting, Council is scheduled to discuss reinstating the Town's Consulting Water Management Program, which was offered by the Town in FY10 and FY11. Attached are several documents related to this program.

# MEMORANDUM

IV-D

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: 2014 Community Survey  
DATE: September 10, 2014

At the September meeting, Council is scheduled to discuss plans for a 2014 Community Survey. Attached is a copy of the 2012 survey for your review.

# MEMORANDUM

V-D

TO: Town Council  
FR: Todd Hoffman, Town Manager  
RE: Town Manager's Report  
DATE: September 10, 2014

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 and attended Council executive session.
- Assisted with appointments to Town committees and boards.
- Assisted with developing Committee tasks and special projects for 2014-2015; distributed draft tasks and scheduled organizational meeting.
- Met with members of the Climate and Environment Committee to discuss several proposed initiatives.
- Worked with the Community Relations Committee and Climate & Environment Committee to plan special events.

## **Special Projects:**

- Met with engineering firm affiliated with 7300 Pearl Street to discuss interim development plans; discussed plans with County Planning staff and notified Elm Street residents of these plans.
- Scheduled meeting to discuss redevelopment plans for 7121 Wisconsin Avenue.
- Attended meeting to discuss proposed plans for Fire Station 6 redevelopment.
- Developed and issued RFP for legal assistance related to the Bethesda Downtown Plan.
- Developed draft RFPs for financial advisory services and Lawton Center traffic study.
- Communicated with MCDOT re. Capital Crescent Surface Trail plans.
- Communicated with MCDGS re. solar panels at Lawton Center.
- Communicated with SHA re. multiple traffic signalization issues on border streets.
- Oversaw FY2014 audit.
- Completed evaluation of Curtis Road parking plan; scheduled public hearing for October.
- Continued working with consultant on street lighting improvements along E-W Highway.
- Continued working with consultants on Zimmerman Park landscaping improvements.
- Commissioned traffic volume and speed study on 3900 block of Aspen Street.
- Completed hazardous tree survey.
- Completed concrete repairs and began asphalt repairs.
- Began implementing street signage upgrade and replacement project.
- Researched options for screening the Town generator.
- Responded to Open Meetings Act complaint.
- Began preparing for fall tree plantings.
- Prepared and mailed permit parking renewal notices.
- Continued enforcement of overgrown vegetation on Town rights-of-way.
- Attended multiple meetings re. proposed Purple Line project.