

TOWN OF CHEVY CHASE
COUNCIL MEETING
June 12, 2023

- I. GENERAL BUSINESS (7:00-7:30 p.m.)
 - A. Call to Order
 - B. May 2023 Financial Report
 - C. Town Manager's Report
 - D. Public Comments

- II. VARIANCE HEARINGS (7:30-8:30 p.m.)
 - A. [Gerlach, 4004 Underwood Street, Rear and Side Yard Retaining Wall Setback](#)
 - B. [Love, 7011 Hillcrest Place, Side Yard Retaining Wall Setback](#)

- III. COUNCIL DISCUSSIONS (8:30-9:15 p.m.)
 - A. East West Highway Corridor/Crosswalk Safety
 - B. 46th Street (between Leland Street and Walsh Street) Traffic Proposal
 - C. Meeting with State Delegation on July 12

- IV. ADJOURNMENT (9:15 p.m.)

How to Join the Council Meeting

- 1. In-Person
4301 Willow Lane, Chevy Chase, MD 20815

- 2. [Online via Zoom](#)

- 3. By Phone via Zoom
(301) 715-8592 US
Meeting ID: 301 654 7144
Passcode: 6547144

STAFF REPORT

II-A

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Gerlach, 4004 Underwood Street, Rear and Side Yard Retaining Wall Setback
DATE: June 12, 2023

Kristin Gerlach, 4004 Underwood Street, proposes to retain a recently constructed retaining wall with a maximum height of 2.5 feet along the rear and side property lines as shown on the attached site plan. Town building regulations require walls taller than 1 foot to be set back a minimum of 2 feet from a rear or side lot line; therefore, a variance is required.

At its February 2023 meeting, the Council approved a variance for a wall along the rear property line with a maximum height of 2 feet. The applicant is requesting to modify that variance approval to allow the constructed wall to remain at its current height.

Background:

As of June 9, 2023, the Town has received three letters, attached, related to the request.

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. The Council should consider the entire record in considering the variance request.

Applicant's Claims for the Variance Request:

1. The applicant's property has unusual topographical conditions and is subject to other extraordinary conditions. The wall is necessary to support the yard. The wall replaces an existing low timber wall and fence that were failing due to erosion resulting from excessive stormwater that runs along the rear property line. The wall is constructed of concrete block that will prevent future erosion.
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. The wall replaces a lower wall in the same location. The wall is sited to allow the preservation of 3 large cryptomeria trees.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The wall, as built, is not higher than necessary to keep the soil in the applicant's yard from eroding.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The wall is located near the rear property line and is not visible from any neighboring properties.

5. The improvements do not impair the general plan of the Town. The wall is on the rear property line and is heavily screened by vegetation. It will not be seen, even by the adjacent property owner.

STAFF REPORT

II-B

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Love, 7011 Hillcrest Place, Side Yard Retaining Wall Setback
DATE: June 12, 2023

Kevin and Mary Love, 7011 Hillcrest Place, propose to construct a retaining wall with a maximum height of 4.5 feet along the south side property line as shown on the attached site plan. Town building regulations require walls taller than 1 foot to be set back a minimum of 2 feet from a side property line; therefore, a variance is required.

Background:

As of June 9, 2023, the Town has not received any correspondence related to the request.

Staff note: The following assertions summarize materials provided by the applicants 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 applicants should indicate to the Council if any arguments have been misrepresented. The Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Request:

1. The applicants' property has unusual topographical conditions and is subject to other extraordinary conditions. The rear yard has a steep slope. The applicants would like to level the yard so their children can safely play, which requires the installation of a retaining wall. Offsetting the wall from the side property line would create a narrow space between the wall and the neighbor's fence that would be unmaintainable. The proposed plan will allow for the construction of the wall without impacting the neighbor's fence and allow for the entire yard to be maintained.
2. Approval of the variance is requested because conforming to the Town's building ordinance would be impractical and cause peculiar or unusual practical difficulties. Approval of the variance will eliminate a condition where there is an unusable and unmaintainable narrow strip of land between the applicants' retaining wall and the neighboring property that would result from the construction of a conforming retaining wall.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The neighboring property has a 6-foot-tall fence that shields the proposed wall from view. The impact of having a conforming wall placed two feet from the side property line versus having a wall placed along the side property line is minimal. The neighbor's fence will not be impacted by the wall construction.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The proposed plan is the only sensible way that the applicants can create a yard that can be fully maintained. The applicants' engineer has taken the neighbor's fence into consideration in designing the wall.

5. The improvements do not impair the general plan of the Town. The neighbor has a fence that is at the property line. Constructing a conforming retaining wall would create an unfortunate situation where a two-foot-wide strip of land behind the wall would be unusable and unmaintainable. The proposed wall would create a solution that will protect the integrity of the neighbor's fence while creating a space that the applicants can maintain.