



**Chevy Chase Village  
Board of Managers**

1. Meeting Called To Order  
Mr. Michael L. Denger

2. Appeals

**A-7190: Ms. Julijana Amiel & Mr. Valery Amiel Trustees of the Valery Amiel & Julijana Amiel Revocable Living Trust  
5701 Wisconsin Avenue, Chevy Chase, Maryland 20815**

Construct a porch, which would encroach a maximum of seven feet, one inch (7'-1") into the twenty (20) foot rear (north) yard setback.

Documents:

[VARIANCE REQUEST A-7190.PDF](#)

**Next Regular Board of Managers' Meeting**

The Chevy Chase Village Board of Managers' next meeting is on Monday, September 11, 2017 at 7:30 p.m. in the Village Hall

**Please note:** To reduce costs, copies of supporting materials for matters on this agenda are not provided at the meeting. If you would like to review materials related to matters discussed at this meeting, you are encouraged to visit the Village's website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) by clicking on "Board of Managers Meetings" under "Quick Links" on the homepage.

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**CHEVY CHASE VILLAGE  
BOARD OF MANAGERS  
AUGUST 16, 2017 SPECIAL MEETING**

**STAFF INFORMATION REPORT**

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**TO:** BOARD OF MANAGERS  
**FROM:** ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR  
**DATE:** 8/11/2017  
**SUBJECT:** HEARING OF CASE NO. A-7190 VARIANCE APPLICATION, MS. JULIJANA AMIEL & MR. VALERY AMIEL, TRUSTEES OF THE VALERY AMIEL & JULIJANA AMIEL REVOCABLE LIVING TRUST 5701 WISCONSIN AVENUE (ALSO KNOWN AS 4115 OLIVER STREET). THE APPLICANTS REQUEST A VARIANCE TO CONSTRUCT A PORCH WHICH WOULD ENCROACH A MAXIMUM OF SEVEN FEET, ONE INCH (7'-1") INTO THE TWENTY (20) FOOT REAR (NORTH) YARD SETBACK.

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**NOTICE REQUIREMENTS:** Abutting Owners; Public Notice

**APPLICABLE CHEVY CHASE BUILDING REGULATION:**

**The Chevy Chase Village Code Sec. 8-16 (h) states:**

No part of any main building shall be erected within twenty (20) feet of the rear lot line of the property upon which it is to be located.

**APPLICABLE COVENANTS:**

"Subject to five foot reservation across the rear of said lot..." [The proposed porch does not encroach into the covenant setback.]

**FACTUAL AND BACKGROUND INFORMATION:**

The Property is located on the northeast corner of Wisconsin Avenue and Oliver Street. It is referred to as both 5701 Wisconsin Avenue and, less frequently, 4115 Oliver Street. The property is not located within the Chevy Chase Village Historic District.

The yards abutting both Oliver Street and Wisconsin Avenue are considered "front" yards and the north yard has been designated as the rear yard for the purposes of setbacks.

The proposed porch is compliant with Montgomery County building regulations.

The covenants applicable to the Property do not stipulate a rear yard setback. They do stipulate a five (5) foot utility reservation. The proposed porch would not encroach into that reservation.

The Village Arborist has assessed the property. No trees are proposed for removal and construction of the porch can be accommodated through a Tree Protection Plan.

To date no correspondence has been received regarding the application.



Figure 1: Looking to the northwest



Figure 2: Looking toward the southwest

Applicable Fees: Building Permit Application: \$30; Appeal Fee: \$300. Total: \$330.00

**RELEVANT PRIOR CASES:**

(Prior to 2008 there was not a separate Code provision for rear yard setbacks; it was the same provision as for the side yard (seven (7) feet). Not surprisingly all the precedents found for variances from the Code provision pre-2008 were associated with the side yards as side yards are typically shallower than any rear yard; Staff was not able to locate a request prior to 2008 for a variance from the rear yard setback.

In 2010 (following the 2008 Code re-write) Mr. & Mrs. Nicholas Calio of 11 West Melrose Street (not a corner lot) were granted a variance to construct a two story addition which would encroach fourteen (14) feet into the required twenty (20) foot rear yard setback. That property abuts and is truncated by the Chevy Chase Club and the rear yard is exceptionally shallow. In March 2017 Dr. Bitu Arabshahi & Dr. Ali Ghorbani of 5803 Kirkside Drive were granted a variance to construct an addition which would encroach a maximum of two feet, nine and one-half inches (2'-9 1/2") into the twenty (20) foot rear (east) yard setback. That property is a corner lot and the proposed addition encroached into the rear yard setback less than an existing garage.

**FINDINGS REQUIRED (VARIANCE):**

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of [the Village Building Code] would result in an unwarranted hardship and injustice to the owner;
2. The proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and
3. Except for variances from the requirements of Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [public rights-of-way] of the Village Regulations, the structure authorized by the proposed variance would not violate any covenant applicable to the property.

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**Draft Motion**

I move to APPROVE/DENY the variance application in Case A-7190 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the variance HAVE/HAVE NOT been met. Staff is directed to draft a decision based on this evidence, including findings of fact and conclusions, APPROVING/DENYING the variance application.

**CHEVY CHASE VILLAGE  
NOTICE OF PUBLIC HEARING**

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Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 16<sup>th</sup> day of August, 2017 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-7190  
MS. JULIJANA AMIEL &  
MR. VALERY AMIEL  
TRUSTEES OF THE VALERY AMIEL & JULIJANA AMIEL REVOCABLE LIVING TRUST  
5701 WISCONSIN AVENUE  
CHEVY CHASE, MARYLAND 20815**

Pursuant to Sec. 8-9 of the Chevy Chase Village Building Code the applicants seek from the Board of Managers a variance to construct a porch which would encroach a maximum of seven feet, one inch (7'-1") into the twenty (20) foot rear (north) yard setback.

**The Chevy Chase Village Code Sec. 8-16 (h) states:**

No part of any main building shall be erected within twenty (20) feet of the rear lot line of the property upon which it is to be located.

Additional information regarding this case may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) or you may contact the office for this information to be mailed to you.

This notice was mailed and emailed (where possible) to abutting and confronting property owners on the 2<sup>nd</sup> day of August, 2017.

**Chevy Chase Village Office  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815  
301-654-7300**

# Chevy Chase Village

## Application for a Variance

A variance is permission granted by the Board of Managers pursuant to, and subject to, the conditions of Sec. 8-9(c) of Chapter 8 to construct, install, remove or alter a structure or planting, or take any other action that does not otherwise meet the requirements of the Chapter. Except as provided in Sec. 8-11 a variance can be granted only by the Board of Managers.

Subject Property:	5701 WISCONSIN AVE CHCH MD 20815		
Describe the Proposed Project:	L-SHAPED PORCH IN THE BACKYARD		
Applicant Name(s) (List all property owners):	VACERY & JULIANA AMIEL		
Daytime telephone:	301-652-1533	Cell:	202-215-4732
E-mail:	vamiel@aol.com		
Address (if different from property address):			
For Village staff use:			
Date this form received:	7/6/17	Variance No:	A-7190

### Filing Requirements:

Applications will be reviewed for satisfaction of all requirements and are not considered complete until approved as such by staff.

- Completed Chevy Chase Village Application for a Variance (this form)
- Completed Chevy Chase Village Building Permit Application
- Completed Chevy Chase Village Website Posting Notice
- A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- Copy of Covenants applicable to the property except for variances from Secs. 8-21 or 8-26 of Chapter 8 (Building Regulations) or Chapter 25 (Public Rights-of-Way) of the Chevy Chase Village Code.
- Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

### Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: [Signature]

Date: 7/6/2017

Applicant's Signature: [Signature]

Date: 7/6/2017

**Describe the basis for the variance request** (Applicants should become familiar with the pertinent sections of the Village Code. Attach additional pages as needed):

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

UNLIKE ALL SURROUNDING HOUSES, FRONT OF OUR HOUSE (ON OLIVER STR) IS PUSHED BACK NOT 25' BUT 45' BACK, LEAVING ONLY 20' AT THE MOST NARROW POINT FROM THE BORDER. WHEN BUILT, OUR DECK/PORCH IN ITS AT ITS FURTHEST POINT WOULD BE 11' AWAY FROM THE BORDER LINE, AND NOT 10' AWAY FROM THE ABOTTING HOUSE ~~30'~~ AS REQUIRED BY COVENANT, BUT OVER 30'


Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

ONE IF NOT MAIN, REASON FOR OUR PORCH IS THAT THERE ARE 6 (SIX!) HUGE SYCAMORE TREES (2 INSIDE AND 4 ON OUR BORDER LINES) IMMEDIATELY IN THE SAME BACKYARD CORNER, MAKING LIFE ALMOST IMPOSSIBLE THERE MOST OF THE YEAR (EVEN IN WINTER, FOR FALLING BRANCHES)

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

VARIANCE FOR THE PROJECT AS SUBMITTED, IS NEEDED ONLY FOR THE NORTH SIDE OF THE PORCH (EAST IS FINE) AND WOULD KEEP IT WITHIN COUNTY SETBACK'S

In exercising its powers in connection with a variance request, the Chevy Chase Village Board of (AND PA... Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or WITHIN COVENANTS, determination as it deems appropriate.

<b>Variance Filing Fee</b> <i>Per Village Code Sec 6-2(a)(24):</i> <input checked="" type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____	<b>Checks Payable To:</b> Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
<b>Fee Paid:</b> \$300 <sup>00</sup>	<b>Date Paid:</b> 7/10/17 <b>Staff Signature:</b> 
	<b>Approved to Issue Building Permit per Signed Board Decision.</b> <b>Signature:</b> _____ <b>Village Manager</b> <b>Date:</b> _____

Valery & Juliana Amiel  
5701 Wisconsin Avenue  
Chevy Chase MD 20815  
July 7, 2017

CHEVY CHASE VILLAGE  
BOARD OF MANAGERS

CC: Shana R. Davis-Cook  
CCV Manager

**REQUEST TO CONVENE SPECIAL MEETING OF THE BOARD**

First of all, I apologize for this request, or rather petition, as failing to do it on time is entirely my fault. All my explanations for this default will not be a good excuse but delaying a decision till September 11 defers this important for us project (descriptions enclosed in the submitted papers) not by 2 months but for a year as those works, scheduled for 4 months, cannot be conducted during the winter time.

Certainly, we would and will survive postponement but if you could convene special meeting on our variance, it would allow starting seasonal works, for which all is ready, now; it would be great help!

Perhaps not entirely proper for me to come with it now, but ever since we moved in (in year 2000), our property had significantly uplifted the appearance of the Village's main entry from the West, where it's located, maintaining it and taking care of this very busy juncture ever since then at our own effort and expense, not requesting any help, ever, from the Village. But ours is a house "exposed" to traffic and dirt, so the sooner we could have our porch ready, the better our life would be.

Thank you,



Valery Amiel

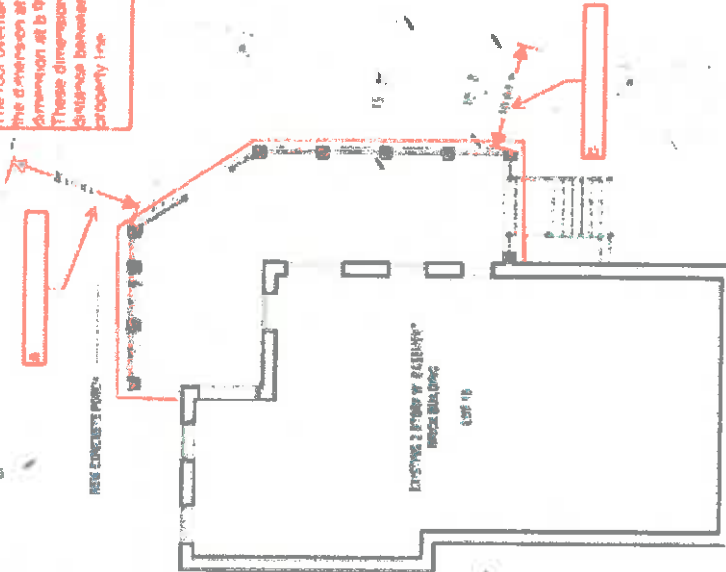
- Brief summary of special circumstances supporting our variance application (i.e. on top of "comfort"):
- 1] 6 huge sycamore trees within and on our border lines, dumping tons of leaves and bark to our yard;
  - 2] we are unduly handicapped vs all other houses, by our front line pushed back 45', not 25' as others, resulting in allowance for unduly smaller porch, not solving problems of comfort nor protection;
  - 3] applying to the Village c-a 2 years ago (before PDRM procedure), I was directed to the County DPS, getting their stamped approval for construction with setbacks of 7' on the side and 11' in the back;
  - 4] we got structural engineering plans on that basis, only to find the Village setbacks were different;
  - 5] the requested variance in our case would be very much in line with the requirements of Chapter 8;
  - 6] our project will solidify and be similar in character with such additions on the 2 abutting properties;
  - 7] our 600 sqf porch brings the current 18% footprint to 24%, still leaving almost 50% free to enlarge;
  - 8] last but not least: our 'furthest' points are within the County setbacks and by far within covenants.





WISCONSIN AVENUE

The roof overhang is 1" through-out meeting the dimension at 3'-12" and the dimension at 6' 11". These dimensions reflect the shorter distance between the roof overhang and the property line.











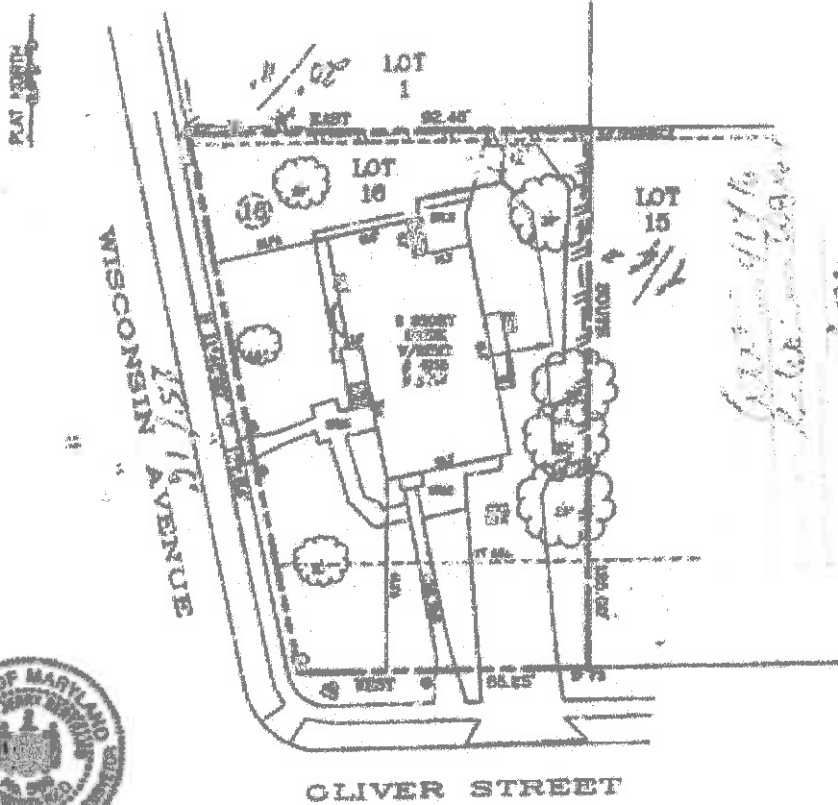






ADDRESS: 5701 WISCONSIN AVE.  
 CHEVY CHASE, MD.

ZONING: R-60



I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN HEREIN FOR THE PURPOSE OF LOCATING THE IMPROVEMENTS ONLY, AND THE IMPROVEMENTS ARE LOCATED AS SHOWN EXACT ACCORDING TO THE RECORDS AS SHOWN EXACT AS SET UNLESS OTHERWISE NOTED IN A NOTE OR RESPONSIBILITY ON LIABILITY FOR ANY COPY-OF-DRAWN ON THE RECORD OR OTHERWISE RECORDED OR UNRECORDED NOT APPEARING ON THE RECORDED PLAT IS MENTIONED IN THE USED REFERENCE TO PERSONS WHO WERE REPORT FURNISHING.

LOCATION SURVEY  
 LOT 16 BLOCK 16  
 CHEVY CHASE  
 PLAT No. 349  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: 1" = 40' DATE: 06-30-08

LANDPLAN ASSOCIATES



*[Signature]* 7/5/08  
 DATE

PROJECT NO.	DATE / YEAR	FILE NO.
349	08-30-08	
PLAT SHOW / YEAR	DATE	
349	08-30-08	

(Plat indicating Montgomery County Zoning approval of the proposed porch setbacks)

State of Maryland, Montgomery County, to wits

I hereby certify, that on this 27th day of August, in the year nineteen hundred and forty-five, before the subscriber, a Notary Public of the State of Maryland, in and for Montgomery County, personally appeared Kenneth Lyddane, the Agent or Attorney for said mortgagee's, and made oath in due form of law, that the consideration mentioned in the above Mortgage is true and bona fide as therein set forth; and also that he is the agent of the said Mortgagee and authorized to make this affidavit.

Ella R. Plummer  
Notary Public  
Montgomery  
County, Md.

*For value received, we hereby release the within mortgage. Witness our hands and seals this 20th day of April, A.D. 1946.*

*Witness: Anna's Day*

*Russell S. Begley (Seal)  
Lucy B. Begley (Seal)  
William B. Baker (Seal)*

*PHB.*

*made to  
Thomas J. Fisher Co, Inc.  
728-15th St. N.W.  
Washington, D.C.*

At the request of Theodore W. Kitchin and Lucy Belle Kitchin, the following Deed was recorded August 27th, A. D. 1945, at 2:03 o'clock P. M. to wit:

This Deed Made this 1st day of August, in the year one thousand nine hundred and forty-five by and between The Chevy Chase Land Company, of Montgomery County, Maryland (a corporation duly organized under and by virtue of the laws of the State of Maryland) party of the first part, and Theodore W. Kitchin and Lucy Belle Kitchin, his wife, of the State of Maryland, as tenants by the entirety, parties of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of Fourteen Hundred Twenty-five (\$1,425.00) Dollars to it paid by the said parties of the second part, and of the covenants and agreements of the said parties of the second part as hereinafter set forth, does hereby grant and convey unto the said parties of the second part, in fee simple, as tenants by the entirety, the following described land and premises, with the improvements, easements, and appurtenances thereunto belonging, situate in the County of Montgomery, State of Maryland, namely:

Lot numbered Sixteen (16) in Block numbered Sixteen (16) in a subdivision known as "Section 1-A, Chevy Chase", in Montgomery County, Maryland; as per plat recorded in Plat Book No. 4, plat 349, one of the Land Records for said Montgomery County;

Subject to a 20 foot building restriction line shown on said recorded plat.

Subject to a five foot reservation across the rear of said lot as shown on said recorded plat.

It is hereby understood and agreed that no objection will be raised by the said parties of the second part, their heirs and assigns, to the ranshing of lots in Blocks 6 and 11 in said subdivision known as "Section One-A, Chevy Chase", Montgomery County Maryland, for use for commercial purposes.

It is hereby understood and agreed that no building shall be erected on the land hereby conveyed unless and until the plans of the elevations, the design and color scheme thereof, as well as the location of said building on said land shall be first approved in writing by The Chevy Chase Land Company of Montgomery County, Maryland, or its successors.

In evidence of their acceptance of the foregoing and following covenants and restrictions, for themselves, their heirs and assigns, the said parties hereto of the second part have hereunto set their hands and seals.

To Have and to Hold the said land and premises, with the above covenants,

easements and appurtenances, unto and to the use of the said parties of the second part, in fee simple, as tenants by the entirety;

In Consideration of the execution of this Deed, the said parties of the second part, for themselves, their heirs and assigns, hereby covenant and agree with the party of the first part, its successors and assigns (such covenants and agreements to run with the land) as follows, viz:

1. That all houses upon the premises hereby conveyed shall be built and used for residence purposes exclusively, except stables, carriage-houses, sheds or other outbuildings, for use in connection with such residences, and that no trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon said premises.

2. That no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises; and that no stable, carriage-house, shed, or outbuilding shall be erected except on the rear of said premises.

In the case of corner lots any and all lines bordering upon a street, avenue, or parkway shall be considered a front line.

3. That no house shall be erected on said premises at a cost less than Seventy-five Hundred (\$7,500.00) Dollars.

4. That any house erected on said premises shall be designated for the occupancy of a single family, and no part of any house or of any structure appurtenant thereto shall be erected or maintained within five (5) feet of the side lines of premises hereby conveyed, nor within (10) ten feet of the nearest adjacent house.

5. That a violation of any of the aforesaid covenants and agreements may be enjoined and the same enforced at the suit of The Chevy Chase Land Company, of Montgomery County, Maryland, its successors and assigns (assigns including any person deriving title mediately or immediately from said Company to any lot or square, or part of a lot or square in the Section of the Subdivision of which the land hereby conveyed forms a part).

And the said party hereto of the first part hereby covenants to warrant specially the property hereby conveyed, and to execute such further assurances of said land as may be requisite.

In Testimony Whereof, on the day and year first hereinbefore written, the said The Chevy Chase Land Company, of Montgomery County, Maryland, has caused these presents to be signed with its corporate name by Edward L. Hillyer its President, attested by Willard G. McGraw, its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Willard G. McGraw its true and lawful Attorney-in fact, for it and in its name, place and stead to acknowledge these presents as its act and deed before any person or officer duly authorized to take such acknowledgment and to deliver the same as such.

Attest: Willard G. McGraw  
Secretary

The Chevy Chase Land  
Co. of Montgomery  
Co., Maryland.

(Internal Revenue \$1.85)  
(State Tax \$1.40)

The Chevy Chase Land Company of  
Montgomery County, Maryland,

By Edward L. Hillyer  
President.

Theodore W. Kitchin  
Lucy Belle Kitchin

District of Columbia, to wit:

I, Frank I. Greenwalt, a Notary Public in and for the said District of Columbia, do hereby certify that on this 1st day of August, 1845, Willard G. McGraw who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed deed, dated the 1st day of August 1845, to acknowledge the same,

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