Executive Session Notice—Monday, April 11, 2016 at 6:30 p.m.

The Chevy Chase Village Board of Managers will convene in Executive Session in the Chevy Chase Village Hall, 5906 Connecticut Avenue, Chevy Chase, MD 20815, pursuant to Section 10-508(a) (4) and (7) of the General Provisions Article, Annotated Code of Maryland, to discuss proposed modifications at the Chevy Chase Center site and related site plan amendments.

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

2. Approval Of Minutes From The Previous Board Of Managers' Meeting

   2.I. Regular Monthly Meeting - March 14, 2016

3. Variance And Special Permit Requests

   3.I. Police Report
   Mr. John M. Fitzgerald, Police Chief

   Documents: MONTHLY POLICE REPORT - MARCH 2016.PDF

   3.II. Ontinuance Of A-6887 (Variance Request): Mr. William Robert Maloni & Ms. Heidi Wynn Maloni Trustees Under The William Robert Maloni Living Trust, 5 Chevy Chase Circle Maintain A Structure Which Was Installed In The Front Yard Of The Property And Which Encroaches Nineteen Feet, Six Inches (19'-6") Forward Of The Twenty-Five (25) Foot Front (Grafton Street) Building Restriction Line.

   Documents: A-6887 - 5 CHEVY CHASE CIRCLE.PDF

   3.III. Amendment To A-6889 (Special Permit): Mr. John J. Campanella & Ms. Kathleen M. Campanella, 5910 Cedar Parkway Modify A Previously Approved Special Permit To Expand An Existing Gravel Driveway From A Maximum Width Of Sixteen (16) Feet To A Maximum Width Of Twenty-One Feet, Eleven Inches (21'-11") On Private Property. The Village Board Previously Approved A Special Permit Allowing The Driveway To Be Expanded To A Maximum Of Nineteen Feet, Eleven Inches (19'-11"), Which Was Not Installed.

   Documents: A-6889 - 5910 CEDAR PARKWAY.PDF

   3.IV. A-6888 (Special Permit): Mr. John J. Campanella & Ms. Kathleen M. Campanella, 5910 Cedar Parkway Maintain A Wall Which Was Constructed In The Cedar Parkway Public Right-Of-Way And Which Is Located Ten (10) Inches From The Inside (West) Edge Of The Public Sidewalk.

   Documents: A-6888 - 5910 CEDAR PARKWAY.PDF

   3.V. Ontinuance Of A-6887 (Variance Request): Mr. William Robert Maloni & Ms. Heidi Wynn Maloni Trustees Under The William Robert Maloni Living Trust, 5 Chevy Chase Circle Maintain A Structure Which Was Installed In The Front Yard Of The Property And Which Encroaches Nineteen Feet, Six Inches (19'-6") Forward Of The Twenty-Five (25) Foot Front (Grafton Street) Building Restriction Line.

   Documents: A-6887 - 5 CHEVY CHASE CIRCLE.PDF

3.VI. A-6888 (Special Permit): Mr. John J. Campanella & Ms. Kathleen M. Campanella, 5910 Cedar Parkway Maintain A Wall Which Was Constructed In The Cedar Parkway Public Right-Of-Way And Which Is Located Ten (10) Inches From The Inside (West) Edge Of The Public Sidewalk.

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Documents: A-6889 - 5910 CEDAR PARKWAY.PDF

4. Treasurer's Report
Mr. Gary Crockett, Board Treasurer

Documents: TREASURERS REPORT.PDF

5. @8:00 P.m. Public Hearing: Draft Budget For The Fiscal Year Beginning July 1, 2016 (FY2016)
This matter will be considered beginning promptly at 8:00 p.m.
Open for public comment.

HTTP://MD-CHEVYCHASEVILLAGE.CIVICPLUS.COM/178/BUDGET-TAX-INFORMATION

6. Matters Presented For Board Discussion And Possible Action (Where Required)

6.I. Report From The Village Arborist: PEPCO's Proposed Tree Pruning & Removals
Dr. Tolbert Feather, Village Arborist

6.II. Introduced And Presented For Adoption—Resolution No. 04-01-16

FY2016 Budget Amendment No. 4: An Ordinance to Rename the "Park Development Project" line item in the Capital Budget "Park and Greenspace Development Projects"; authorize a donation to the Somerset Elementary School Foundation for the replacement of the school's turf field; transfer $43,100 from the "Village Boundary Survey" line item in the Capital Budget to the "Laurel Park and W. Kirke Intersection" line item in the Capital Budget to fund this project; transfer $13,350 from the "Village Boundary Survey" line item in the Capital Budget to the "Western Grove Park" line item in the Capital Budget to fund the Village's contribution to the Maryland-National Capital Park and Planning Commission for the development of Western Grove Park.

Documents: RESOLUTION NO 04-01-16.PDF

6.III. Introduction Of Resolution No. 04-02-16

An Ordinance to amend Chapter 2, "Public Ethics", Sec. 2-6, "Financial Disclosure – Village Elected Officials and Candidates to be Village Elected Officials", to require that an applicant for appointment to an elected position file a financial disclosure statement at the time the certificate of appointment is filed.

Note: *If approved by the Board, this ordinance will be submitted to the State Ethics Commission for its review and approval prior to adoption by the Village Board.*

Documents: RESOLUTION NO 04-02-16.PDF

7. Commission And Commitee Appointments

7.I. Building Facilities Commission

- Board reappointment of Carole Lee (East Irving Street) for a five-year term.

7.II. Parks & Greenspaces Committee

- Board appointment of Ms. Marguerite Kingson (Hesketh Street) as Co-Chair.

8. Police Report
   Mr. John M. Fitzgerald, Police Chief

   Documents: MONTHLY POLICE REPORT - MARCH 2016.PDF

9. Manager's Report

- Building and Tree Permits and Code Enforcement Report
- Capital and Infrastructure Upgrade Projects Report
- Village Hall Activity Report
- Legal Counsel Report

Documents: PERMITTING AND CODE ENFORCEMENT REPORT.PDF, UPDATE OF CAPITAL AND INFRASTRUCTURE UPGRADE PROJECTS - APRIL 2016.PDF, VILLAGE HALL ACTIVITY REPORT.PDF

Next Regular Board of Managers' Meeting
Monday, May 9, 2016 at 7:30 p.m. in the Village Hall

Village's Annual Meeting
Monday, April 18, 2016 at 7:30 p.m. in the Village Hall
Light refreshments served beginning at 7:00 p.m.

March 2016 CCVPD Highlights

I. Crime/Operational

1. **3 nighttime copper downspout theft events in the early morning hours of March 18:**
    - 5500 block of Center Street; copper downspouts were pulled away from the house and bent, but not stolen (attempt only)
    - Hesketh Street between Magnolia and Cedar (2 homes); residents heard something between 1:30 a.m. and 2:00 a.m., but the noise did not recur and they went back to sleep
2. **No thefts from autos were reported in March.**

II. Training/Administrative

1. **Our 2 newest officers completed the weeklong Crisis Intervention Team training**
2. **One of our nighttime dispatchers has completed first aid and CPR training.**
3. **Chief Fitzgerald attended the funeral for Prince George's County Officer Jacai Colson**

Select Reported Crimes 2016 vs. 2015				
	March '16	March '15	**YTD'16**	YTD'15
Assault	0	0	0	0
Auto Theft & attempts	0	0	0	0
Burglary & attempts	0	0	1*	0
Theft & attempts	3	0	20	10
Robbery	0	0	0	0

*bicycle stolen from inside an open garage

	Select Reported Crimes 2010-Present						
	2010	2011	2012	2013	2014	2015	**2016** as of 03/31/16
Assault	0	0	2	2	0	1	0
Auto Theft & attempts	3	6	2	5	0	3	0
Burglary & attempts	7	14	3	4	8	9	1
Theft & attempts	46	67	97	60	38	75	20
Robbery	1	0	0	0	1	0	0

CHEVY CHASE VILLAGE
ESTABLISHED 1890

POLICE DEPARTMENT
5906 Connecticut Avenue, Chevy Chase, Maryland 20815
(301) 654-7300 FAX: (301) 654-7304
chevychasevillagemd.gov

John Fitzgerald
Chief of Police

MEMORANDUM

TO: John Fitzgerald, Chief of Police

FROM: Bruce I Gessford, Communications Lead Dispatcher

DATE: April 1, 2016

SUBJECT: Monthly Communications Report for March, 2016

	Mar. 16	YTD 16	Mar. 15	YTD 15
Walk In	136	426	125	375
Incoming Phone Calls requiring no action*	990	2,981	1,066	2,990
Incoming Phone Calls requiring an action**	309	777	277	730
House Check Requests	182	409	127	394
Key Pick Up/Drop Off	47	149	44	115
Mail Pick Up	72	261	69	209
Special Pick Up Requests	82	189	86	185
Trash and Recycle Complaints	1	8	4	7

***Note: Incoming phone calls requiring no action include: information requests, forwarding calls internally and externally, providing directions, etc.**

****Note: Incoming phone calls requiring an action may include: house check requests, special pick ups, trash and recycle complaints, etc.**

Chevy Chase Village
Monthly Incident Report
March 2016

Burglary (Including attempts) 0

Theft from Auto (Including attempts) 0

911 Disconnect	0		Investigation/Police Information	0
Alarm	29		Lost Property	0
Animal Bite	0		Miscellaneous	8
Animal Complaint	7		Missing Person	0
Assault and Battery/Other Domestic	0		Noise Complaint	2
Assist Citizen	5		Open Door	7
Assist Other Agency	6		Open Trunk or Vehicle Door	1
Attempted Theft of Auto/Other Vehicle	0		Power Outage	1
Burglary (including attempts)	0		Parking Complaint	1
CDS - Possession Paraphernalia	0		Recovered Property/Montgomery County	4
Check the Welfare	3		Recovered Property/Other	0
Code Enforcement	1		Suspicious Persons/Vehicles	14
Collisions	17		Sudden Death - Natural	0
Hit and Run Property Damage	2		Thefts (including attempts)	3
Property Damage Collision	12		Thefts from Auto	0
Personal Injury Collision	3		Thefts from Other	3
Disabled Vehicle	4		Theft of Auto/Other Vehicle	0
DUI	0		Traffic Hazard	0
Fraud / Embezzlement / Confidence Game	1		Traffic Stop	0
Fail to Pay	0		Trees / Limbs Down	0
Family Trouble	0		Trespassing	0
Fire-Other	0		Vandalism	0
Identity Theft / Forgery	2		Vandalism-Motor Vehicle	0
Hazard - General	0		Vendor Violation	0
Hazard - Roadway	0		Wanted Person	0
Ill Person	5		Water Main Break	0
Injury Non-Traffic	0		Wires Down	0

Collisions within Chevy Chase Village
March 2016

Connecticut Avenue @ Bradley Lane	1		**Brookville Road @** Newlands Street	1
Connecticut Avenue @ Quincy Street	1		**Brookville Road @** East Lenox Street	1
Connecticut Avenue @ East Lenox Street	1		**Brookville Road @** East Kirke Street	1
Connecticut Avenue @East Kirke Street	1		**Cedar Parkway @** Oliver Street	1
Connecticut Avenue @ West Irving Street	2		6315 Broad Branch Road	1
Chevy Chase Circle @ Connecticut Avevnu	4		6 East Kirke Street	1
Chevy Chase Circle @ Grafton Street	1			

Chevy Chase Village
Monthly Traffic Report
March 2016

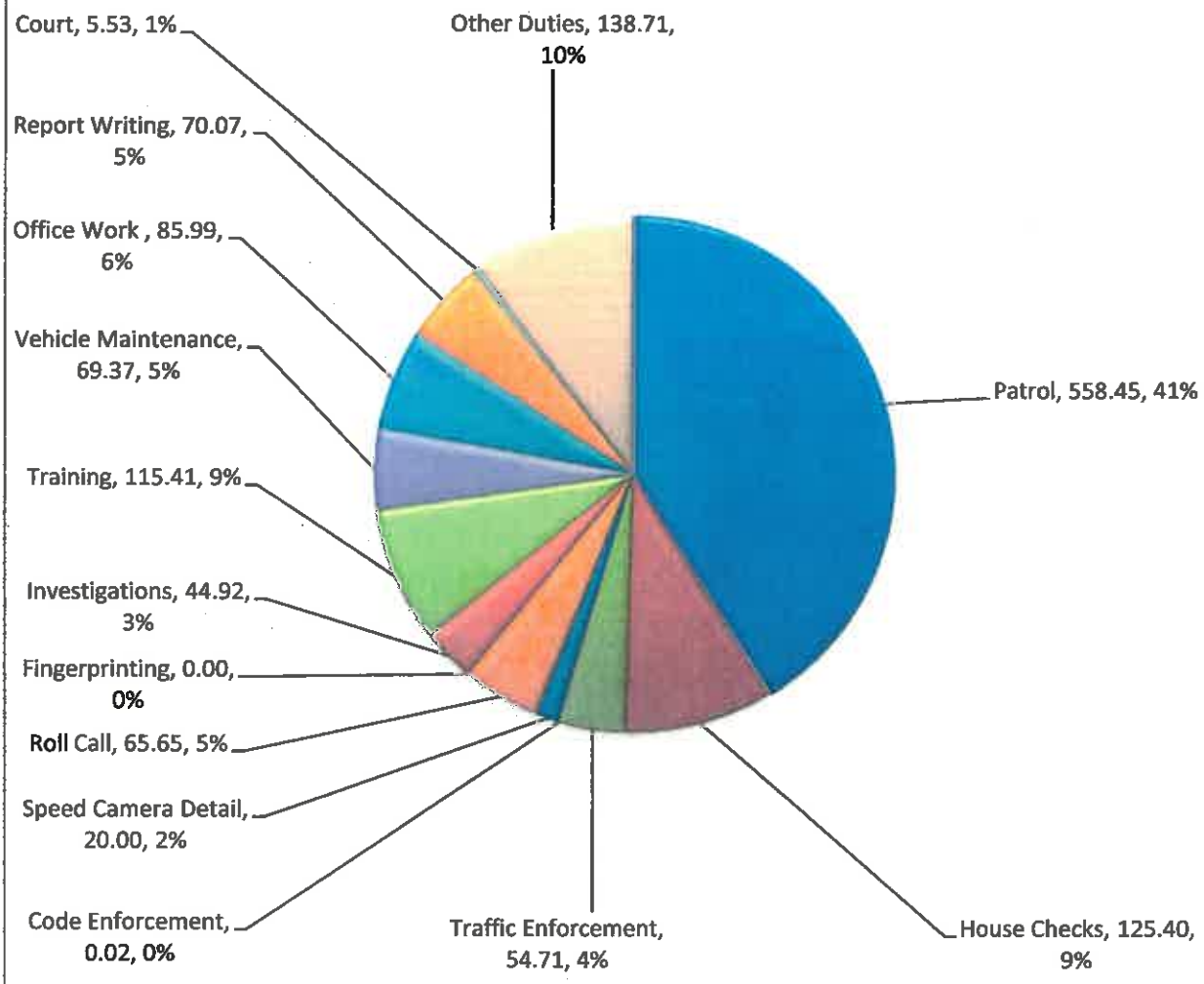
Equipment Repair Orders	1		Police Officers	
Miscellaneous Violations	8		Compliance Inquiry	3
Parking Violations	8		Investigations	0
Sign Violations	1			
Warnings Written	33		Municipal & Civil Citations Issued	0
Speeding Violations	0		Municipal & Civil Warnings Issued	0

Chevy Chase Village
Code Enforcement Report
March 2016

Chevy Chase Village
Agency Personnel Report

	Mar.	YTD
Citizen Complaints	0	0
Citizen Compliments	2	7

Chevy Chase Village Police Department Officer Hours for March 2016 within Chevy Chase Village



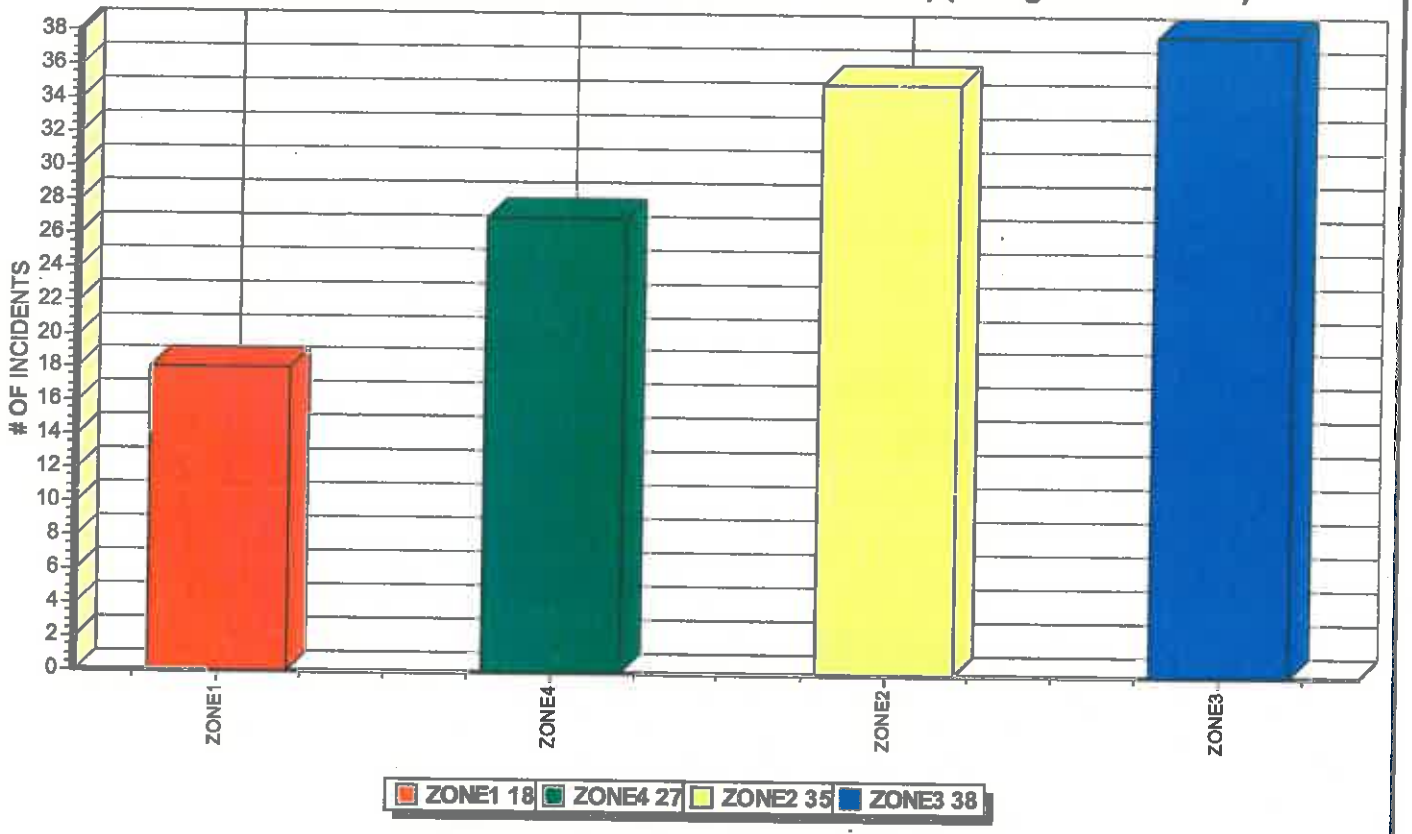
* Note: The SafeSpeed Coordinator's hours are 137.72, which are not included above

March 2016, Police Activity Requiring A Report – See Zone Map

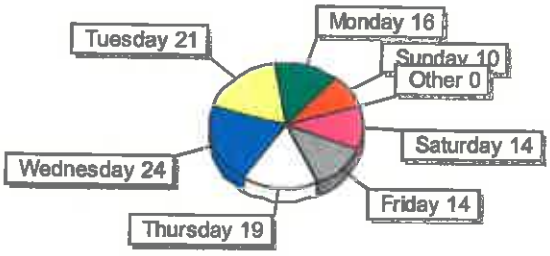
CHEVY CHASE VILLAGE POLICE

04/05/2016 13:01:30

Incident Frequency by DISTRICT (Top 4 of 4 Shown) (Using DATE RECD)

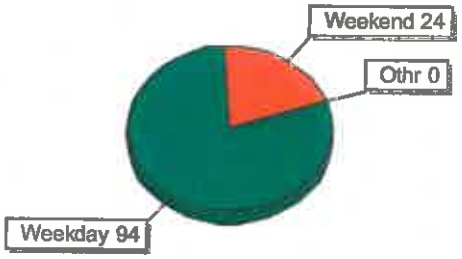


By Day of Week



Sunday	8.47 %	Monday	13.56 %
Tuesday	17.8 %	Wednesday	20.34 %
Thursday	16.1 %	Friday	11.86 %
Saturday	11.86 %	Other	0 %

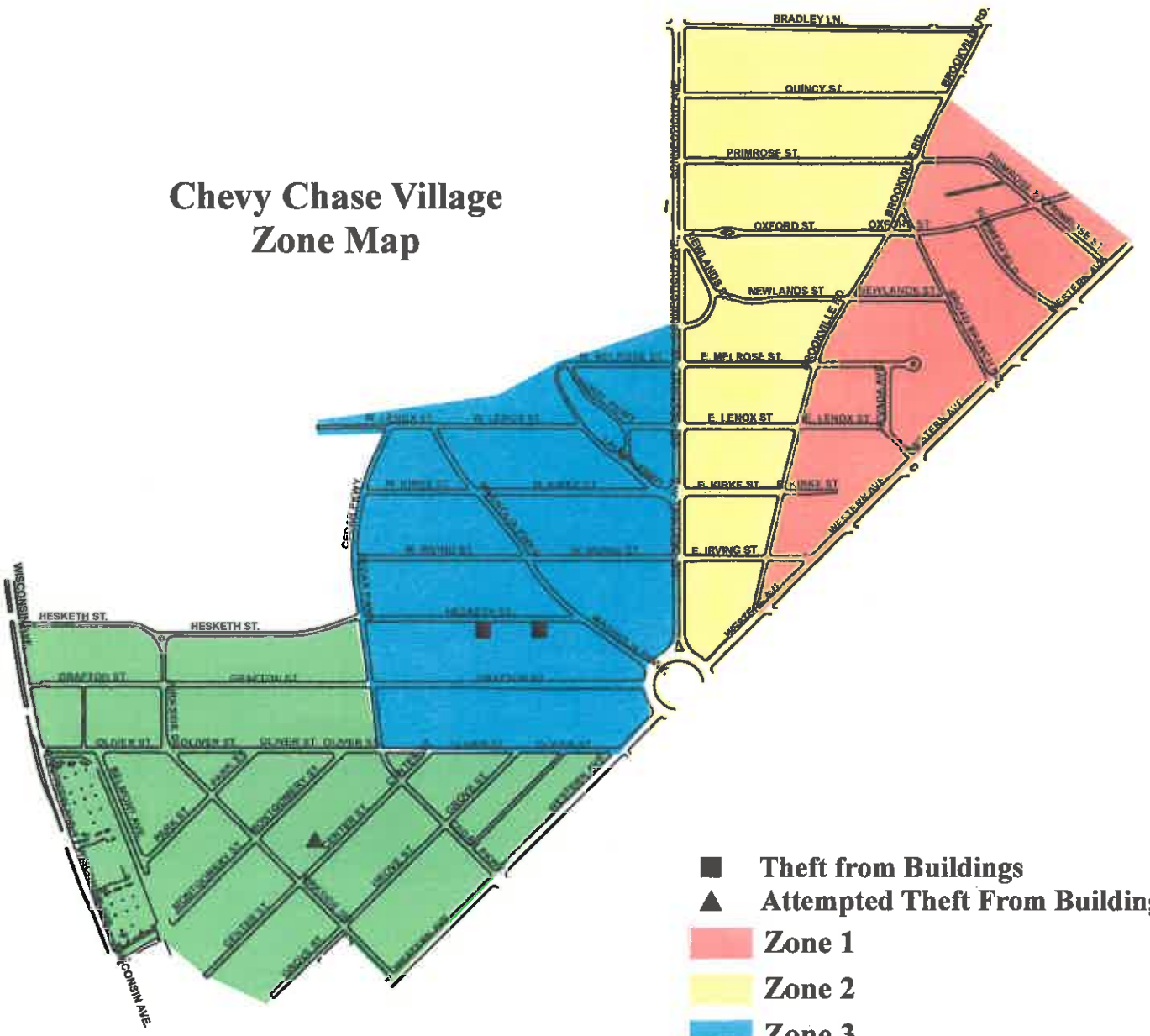
Weekday vs Weekend



Weekend	20.34 %	Weekday	79.66 %
Othr	0 %		

Search Criteria: (DISTRICT >= 'ZONE1')
(DISTRICT <= 'ZONE4')
(INCDNUM like '%%')
(DATE_RECD >= TO_DATE('03/01/2016','MM/DD/YYYY'))
(DATE_RECD <= TO_DATE('03/31/2016','MM/DD/YYYY'))

Chevy Chase Village
Zone Map



A-6887 -continued
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6887-CONTINUED
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 31st day of March, 2016.

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

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6887- CONTINUED- VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

This case is being continued from the February 8 and March 14 monthly meetings.

William Maloni Jr., on behalf of the Applicants provided support materials, per the Board's direction, following the March meeting. Village Counsel has responded to the materials provided by the Applicants. Mr. Maloni's cover letter and Counsel's response follow this Staff Report.

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date correspondence has been received from four abutting and confronting neighbors in support of maintaining the structure; from: Ruth Robbins of 3 Magnolia Parkway; Heather & Dick Cass of 7 Magnolia Parkway; Kathleen Meredith & Burt Braverman of 2 Magnolia Parkway; and Edward T. Kelaher, Rector, on behalf of All Saints Church, 3 Chevy Chase Circle. No correspondence has been received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

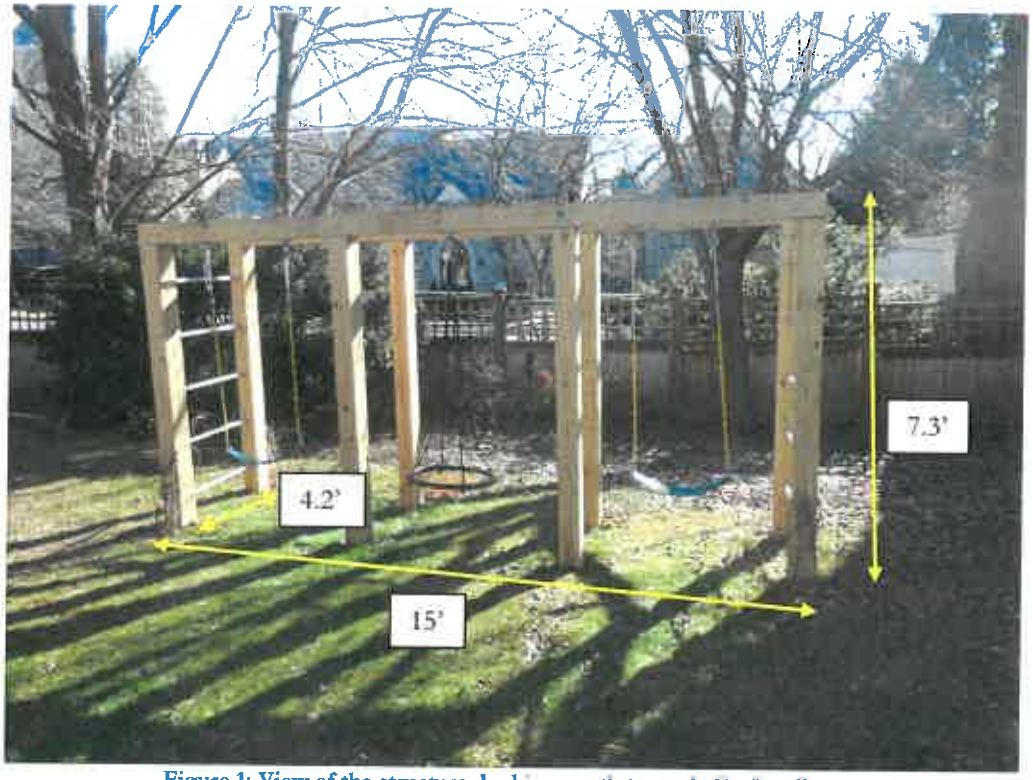


Figure 1: View of the structure, looking south towards Grafton Street.

RELEVANT PRIOR CASES

There are few precedents related to this type of structure being located forward of the front building restriction line. There are precedents for approval of items of safety, such as handrails and lampposts (and these items have since been incorporated into the Code as allowable exceptions); and variances for fences and walls (either height or proximity to public sidewalks) which are not subject to covenant restrictions. Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to require a permit for "permanently anchored play equipment" so that portable basketball hoops, trampolines, etc., which could be easily moved, would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which

violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

March 25, 2016

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

RE: Variance Case No. 6887

Ms. Sands,

I am writing on behalf of my parents, Bill and Heidi Maloni, in response to the continuance granted in the March 14, 2016 Board of Managers meeting for the variance request number 6887. We are writing to provide additional information and further explanation, as requested, in support of our variance request.

The open question at the end of the meeting was how our covenant defines the building setback restriction and how the wording of the building setback, as defined and supported by the Chevy Chase Village Code, is being applied to the placement of a children's play structure which is located five foot six inches (5'-6") inside of the Grafton Street property line of my parents' house at 5 Chevy Chase Circle. Our covenant is part of a contract that was signed when my parents purchased the house in 1992 but this covenant was written in 1909. As defined in our covenant, the property line on the Grafton Street side is set twenty (20) feet short of the lot line. In defining the property conveyed by the deed, the covenant reads as follows:

> *All of Lot numbered one (1) , except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two . . .*

While there is a discrepancy in the fact that Grafton is not necessarily the west side, but actually the south side, the covenant clearly identifies Grafton Street front line as the line impacted.

The phrase in our covenant that dictates the building setback is listed as #2 and reads as follows:

> *That no structure of any description shall be erected within twenty five (25) feet of the front line of said premises.*

This is consistent with the Chevy Chase Village Code definition of front setback found on page 95 of the (attached). The Code specifically identifies the setback as being measured off of the **front lot line**. Again referencing the Chevy Chase Village Code the definition of the front lot line can be found on page 86:

> *Front Lot Line: The boundary line or lines of a lot separating the lot from any and all streets.*

A Street is defined on page 88 of the Chevy Chase Code:

> *Street. A public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. A public sidewalk constitutes an adjunct or accessory to a street to be used for pedestrian traffic.*

Combining these statements would provide the following description

. . . no structure of any description shall be erected within twenty five (25) feet of the boundary line or lines of a lot separating the lot from any and all public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic.

The curb of Grafton Street is thirty one (31) feet off of the property line of my parents' home. The sidewalk, which is simply an accessory to the street and not part of the street, is twenty one (21) feet off the property line. The children's play structure is five feet six inches (5'-6") inside the property line thus the structure is located twenty six (26) feet inside of the most restrictive lot line, if one were to consider the pedestrian walkway as the "street" and, as such, the edge of the lot.

The covenant and the Code both make clear distinction that the setback is to be measured off of the front lot line and *not* the property line. In the March 14th meeting an assertion was made that the intent was to indicate that the setback be measured off the property line but we disagree strongly with that statement. The covenant for my parents' house includes the very specific statement that the property conveyed by the deed is twenty (20) feet off the lot line and in doing so makes a clear distinction between the lot line and the property line. The definitions of front line and front lot line, which are provided by the Chevy Chase Village Code, support this differentiation.

In both the February and March Board of Managers' meetings, the Board members expressed their desire to support our variance but stated that it could not be done because it would go against the covenant and they simply could not violate the covenant. I reference back the fact that our covenant definition of front setback is *nearly* the same but not exactly the same as the Chevy Chase Village Code. The Code definition, as found on page 95, reads as follows:

Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, ***except that*** *. . .*

The covenant goes onto say that exceptions are granted, with a variance request, for flagpoles, lamp posts, and handrails. These items are no longer considered "structures of any description" under the Chevy Chase Village Code. Additionally, just last year, legislative policy was adopted to grant an exemption for steps and porticos which encroach on the building setback. In paragraph nine (9) of the legislative policy, attached, the Board has determined that the covenants imposed by the Chevy Chase Land Company did not intend for steps which are necessary to address the change in elevation. But in the same paragraph, the board also finds that "the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce." While this situation is not directly applicable to the single children's play structure that has been erected in my parents yard, it is evidence that this board has the authority to recognize reasonable application of the covenant and sensible execution of their authority. The statement shows that the covenants are not iron clad and that a sensible and thoughtful exemption can and will be granted.

In the March 14th meeting, our neighbor, Mr. Braverman, made the very clear point that granting a variance for this type of situation is entirely within the Board's authority. A variance, by its definition is a deviation of the laws that govern the use of a property and a Board of Managers has that power to allow deviations where reasonable. We believe that the placement of the children's play structure is not only reasonable, but, as defined in the Chevy Chase Village Code and the covenant for my parents' property at 5 Chevy Chase Circle, is appropriately located within the building setback of said property.

Thank you for granting us the continuance and allowing us to provide the Board with this additional information and thank you for your consideration. We look forward to discussing this variance application further at the April 11 Board Meeting.

Sincerely,

Billy Maloni Jr, PE
5 Chevy Chase Circle
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
ATTORNEY INFORMATION REPORT

TO: BOARD OF MANAGERS
FROM: SUELLEN M. FERGUSON, ESQ.
DATE: 4/6/2016
SUBJECT: Case No. A-6887 Variance Request 5 Chevy Chase Circle

This Variance Request was first heard at the Board meeting in February, 2016. The owners of the property seek to obtain a variance to allow a "Wysteria arbor" measuring 4.2'x15'x7.3' to be installed in the Grafton Street front yard of this corner property. Because this property fronts on three streets (Chevy Chase Circle to the east, Grafton Street to the south and Magnolia Parkway to the north), it has three front yards. Due to its size, the arbor is considered a "structure" under the Village Building Code, and so is subject to the front building restriction line requirements. In addition, the covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five foot building restriction line.

Staff has determined that the structure encroaches 19'6" forward of the front building restriction line on Grafton Street. While an argument can be made for a variance based on the three front yards, pursuant to Sec. 8-9(c)(3) of the Village Code, the Board is not authorized to grant a variance that violates any covenant applicable to the property. This was stated at the meeting in February, and the applicants were given a continuance to allow additional time to propose an alternative that could be approved.

At the second hearing on this matter in March, and in a subsequent letter, Billy Maloni, Jr., on behalf of the owners (hereinafter referred to as applicant), has made various arguments with respect to why the structure is not located forward of the front building restriction line, and why a variance should be granted in any event. I have been asked to provide my opinion with respect to whether the applicant's arguments are correct. **It is my opinion that they are not correct, and that the Board cannot grant the variance.**

First, it is argued by the applicant that the front lot line and the property line for this property are not the same, and that the setback should be measured off of the front lot line and not the property line. It is argued that if the setback is measured off of the lot line, the arbor is not in

violation. As support for this, the applicant references the property description that states, in part, "All of Lot numbered ONE(1) except the West 20.00 feet front on Grafton Street by full depth thereof, of said Lot numbered ONE (1) in block number TWENTY-FIVE (25) . . ." He then argues that the front setback line should be measured from the curb on Grafton Street, which he describes as the front lot line, as opposed to the property line, which he states is twenty feet closer to the house than the lot line based on the deed description. This argument is not supported by the record.

In making this argument, the applicant states that the above-referenced property description contains a "discrepancy" on the basis that Grafton Street is on the south side of the property, not the west side, but agrees that the covenant clearly identifies Grafton Street as the front line to which it applies.

There is no discrepancy in the deed reference. The deed for 5 Chevy Chase Circle conveys all of Lot One, Block 25, except the west 20 feet. This 20 feet, together with all of Lot 2 in Block 25, constitutes the adjacent property to the west, which is 3 Grafton Street. See attached Quit Claim Deeds for 3 Grafton Street and 5 Chevy Chase Circle, and the plats for both properties, on which the west 20 feet is highlighted. As a result, there is no difference between the front lot line and the property line on Grafton Street for this property. Staff has properly located the point of measurement from that line, and the arbor encroaches into the setback.

As part of this argument, the applicant states that the front lot line should be measured from the curb at Grafton Street, instead of the property line. The front lot line is the boundary line of a lot separating the lot from any and all streets. A street is the public right of way and includes but is not limited to roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. However, the street is not only the paved portion of the right of way, but the entire right of way. It does not end at the curb. The property line marks the end of the right of way, or street, which as noted has been properly located by staff.

The applicant has also cited to a prior decision with respect to Case No. A-4431 (2002), involving a variance for placement of play equipment in a front yard at 5801 Kirkside Drive. A review of this case indicates that the setback restriction in the record for this property, as evidenced by the subdivision plat, was 20 feet and that the play equipment complied with that setback. No deed referencing the covenant setback for this property is in the record and the Board in its decision accepted the 20 foot restriction shown on the subdivision plat as evidence of the enforceable covenant. A variance was before the Board only because the play equipment location was not compliant with the Village Building Code imposed setback of 25 feet.

Finally, applicant argues that the Board may interpret the reasonable application of the covenant and exempt this structure. However, the Board has determined that certain structures are not considered structures for covenant purposes only on the basis that the original covenanters would not have intended to include them, either for safety reasons, or as evidenced by the fact that the type of structure was present at the time of the deed. This

structure does not fit in either category, and so the covenant applies and the variance cannot be granted.

A-6887 -continued
Materials submitted by William Maloni, Jr. on behalf of the Applicants following the March 14, 2016 Board meeting

- Cover Letter
- Copy of the covenants applicable to the Property
- Two site plans depicting the location of the structure
- Copy of the "Legislative Policy to Exclude Certain Stoops, Steps and Porticos from the Definition of Structures for the Purposes of the Covenant Compliance…"
- Copy of Chapter 8 ("Buildings and Building Regulations") of the Chevy Chase Village Code

March 25, 2016

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

RE: Variance Case No. 6887

Ms. Sands,

I am writing on behalf of my parents, Bill and Heidi Maloni, in response to the continuance granted in the March 14, 2016 Board of Managers meeting for the variance request number 6887. We are writing to provide additional information and further explanation, as requested, in support of our variance request.

The open question at the end of the meeting was how our covenant defines the building setback restriction and how the wording of the building setback, as defined and supported by the Chevy Chase Village Code, is being applied to the placement of a children's play structure which is located five foot six inches (5'-6") inside of the Grafton Street property line of my parents' house at 5 Chevy Chase Circle. Our covenant is part of a contract that was signed when my parents purchased the house in 1992 but this covenant was written in 1909. As defined in our covenant, the property line on the Grafton Street side is set twenty (20) feet short of the lot line. In defining the property conveyed by the deed, the covenant reads as follows:

> *All of Lot numbered one (1) , except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two . . .*

While there is a discrepancy in the fact that Grafton is not necessarily the west side, but actually the south side, the covenant clearly identifies Grafton Street front line as the line impacted.

The phrase in our covenant that dictates the building setback is listed as #2 and reads as follows:

> *That no structure of any description shall be erected within twenty five (25) feet of the front line of said premises.*

This is consistent with the Chevy Chase Village Code definition of front setback found on page 95 of the (attached). The Code specifically identifies the setback as being measured off of the **front lot line**. Again referencing the Chevy Chase Village Code the definition of the front lot line can be found on page 86:

> *Front Lot Line: The boundary line or lines of a lot separating the lot from any and all streets.*

A Street is defined on page 88 of the Chevy Chase Code:

> *Street. A public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. A public sidewalk constitutes an adjunct or accessory to a street to be used for pedestrian traffic.*

Combining these statements would provide the following description

. . . no structure of any description shall be erected within twenty five (25) feet of the boundary line or lines of a lot separating the lot from any and all public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic.

The curb of Grafton Street is thirty one (31) feet off of the property line of my parents' home. The sidewalk, which is simply an accessory to the street and not part of the street, is twenty one (21) feet off the property line. The children's play structure is five feet six inches (5'-6") inside the property line thus the structure is located twenty six (26) feet inside of the most restrictive lot line, if one were to consider the pedestrian walkway as the "street" and, as such, the edge of the lot.

The covenant and the Code both make clear distinction that the setback is to be measured off of the front lot line and *not* the property line. In the March 14th meeting an assertion was made that the intent was to indicate that the setback be measured off the property line but we disagree strongly with that statement. The covenant for my parents' house includes the very specific statement that the property conveyed by the deed is twenty (20) feet off the lot line and in doing so makes a clear distinction between the lot line and the property line. The definitions of front line and front lot line, which are provided by the Chevy Chase Village Code, support this differentiation.

In both the February and March Board of Managers' meetings, the Board members expressed their desire to support our variance but stated that it could not be done because it would go against the covenant and they simply could not violate the covenant. I reference back the fact that our covenant definition of front setback is *nearly* the same but not exactly the same as the Chevy Chase Village Code. The Code definition, as found on page 95, reads as follows:

Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, ***except that*** *. . .*

The covenant goes onto say that exceptions are granted, with a variance request, for flagpoles, lamp posts, and handrails. These items are no longer considered "structures of any description" under the Chevy Chase Village Code. Additionally, just last year, legislative policy was adopted to grant an exemption for steps and porticos which encroach on the building setback. In paragraph nine (9) of the legislative policy, attached, the Board has determined that the covenants imposed by the Chevy Chase Land Company did not intend for steps which are necessary to address the change in elevation. But in the same paragraph, the board also finds that "the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce." While this situation is not directly applicable to the single children's play structure that has been erected in my parents yard, it is evidence that this board has the authority to recognize reasonable application of the covenant and sensible execution of their authority. The statement shows that the covenants are not iron clad and that a sensible and thoughtful exemption can and will be granted.

In the March 14th meeting, our neighbor, Mr. Braverman, made the very clear point that granting a variance for this type of situation is entirely within the Board's authority. A variance, by its definition is a deviation of the laws that govern the use of a property and a Board of Managers has that power to allow deviations where reasonable. We believe that the placement of the children's play structure is not only reasonable, but, as defined in the Chevy Chase Village Code and the covenant for my parents' property at 5 Chevy Chase Circle, is appropriately located within the building setback of said property.

Thank you for granting us the continuance and allowing us to provide the Board with this additional information and thank you for your consideration. We look forward to discussing this variance application further at the April 11 Board Meeting.

Sincerely,

Billy Maloni Jr, PE
5 Chevy Chase Circle
Chevy Chase, MD 20815

State of Maryland, County of Montgomery, ss:

I hereby certify that on this sixteenth day of June in the year 1909, before me the subscriber, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Wilmer O.Platt, Mayor of the Town of Takoma Park, Maryland, and did acknowledge the aforegoing deed to be the act of said Town of Takoma Park, Maryland.

In Testimony Whereof, I have hereunto set my hand and affixed my seal this 16th day of June, 1909.

H.Edson Rogers.

H.Edson Rogers
Notary Public
Montgomery
Co.Md.

206 — 246

At the request of Charles D.Cugle and Jessie Owen Cugle the following Deed was recorded May 7th A.D.1909 at 1.30 o'clock P.M., to wit.

THIS DEED, Made this 29th day of April in the year one thousand nine hundred and nine 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 Charles D.Cugle and Jessie Owen Cugle, his wife, of the City of Baltimore, State of Maryland, parties of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of fifty three hundred and sixty-five and 44/100 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:

All of Lot numbered one (1), except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two, of the Subdivision made by The Chevy Chase Land Company, of Montgomery County, Maryland, as per plat of said subdivision recorded in Libar J.A. No.36, folio 61, of the Land Records of said Montgomery County, Maryland.

To Have and To Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part, as tenants by the entirety, the survivor of them, their heirs and assigns, and the heirs and assigns of the survivor, in fee simple.

In Consideration of the execution of this Deed, the said parties of the second part for themselves and for each of them, for their and for each of 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 five thousand (5,000) dollars.

4. That any house erected on said premises shall be designed 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 J.Stellwagen, its Vice President, attested by Herbert Claude its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Harold E.Doyle, 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.

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

THE CHEVY CHASE LAND COMPANY, OF MONTGOMERY COUNTY, MARYLAND,

By:- Edward J.Stellwagen,

Vice President.

Attest.

Herbert Claude

Secretary.

District of Columbia, to wit:-

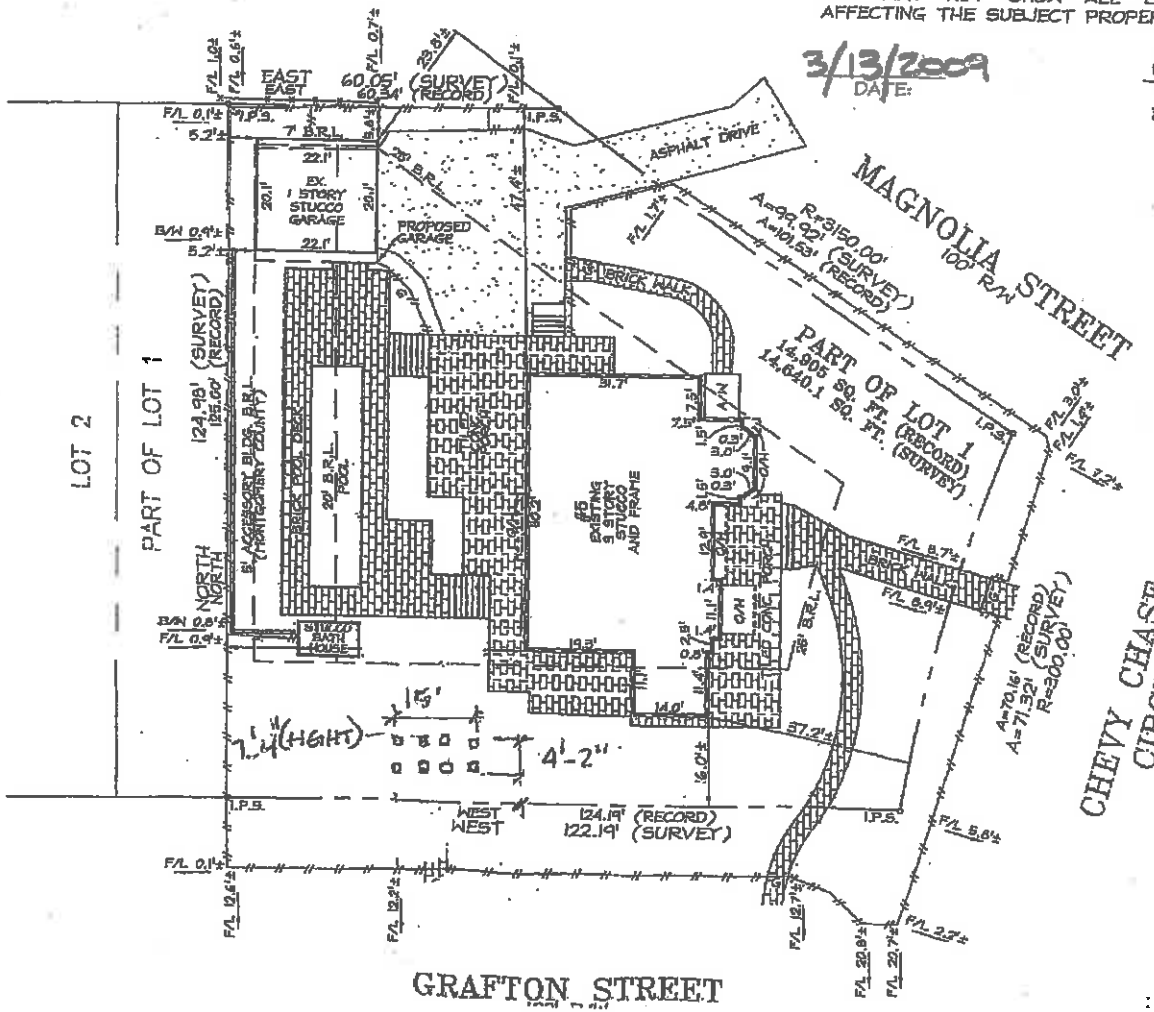
I, Albert W.Siousse, a Notary Public in and for the said District of Columbia, do hereby certify that Harold E.Doyle, who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed deed, dated the 29th day of April 1909, to acknowledge the same, personally appeared before me in the said District of Columbia, and as Attorney in fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

Given under my hand and seal this 29th day of April A.D.1909.

15

PROPOSED GARAGE INSET
SCALE 1"=10'

PART OF LOT 12



P. B. B P. 48

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . . IATION SHOWN HEREON H. BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR . ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

Joseph E. Snider

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,

BE
M

PROPOSED GARAGE INSET
LE 1"=10'

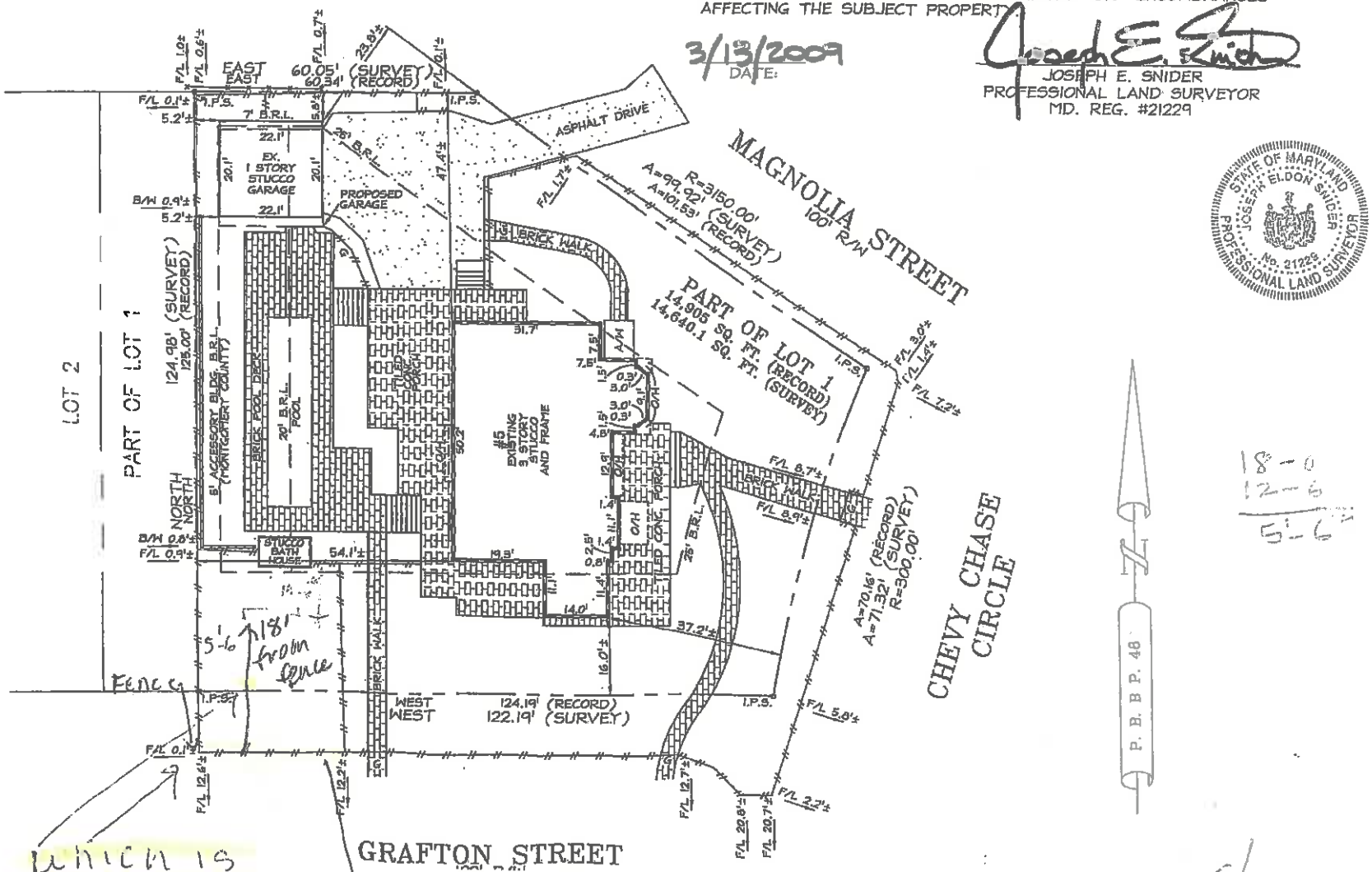
SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . IATION SHOWN HEREON H BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

8. PREMISE AD
#5 CHEVY CHAS
CHEVY CHASE,



STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

18-0
12-6
5'-6"

BE
M

5'-6" 18' from fence

Fence

which is property line?

if this is property line we have 25'

17

Legislative Policy to Exclude Certain Front Steps, Stoops and Associated Porticos from the Definition of "Structures" for the Purposes of the Covenant Compliance as required by Section 8-9(c)(3) of the Village Code for Variance Requests

RECITALS

1. Chevy Chase Village is an incorporated municipality established pursuant to Article XI-E of the Maryland Constitution.
2. Pursuant to §§5-202 and 5-211of the Local Government Article of the Maryland Code, as amended, the legislative body of each municipal corporation in the State of Maryland IS authorized to adopt ordinances, including a Building Code, 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, and to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the residents of the municipality.
3. Section 77-14 of the Chevy Chase Village Charter authorizes the Chevy Chase Village Board of Managers to pass ordinances as it may deem necessary for the health, safety or welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger and destruction; and for the suppression and abatement of nuisances.
4. Pursuant to §20-509 of the Land Use Article of the Maryland Code, a municipal corporation in Montgomery County, such as Chevy Chase Village, is authorized to regulate the construction, repair, erection or remodeling of single-family residential houses and buildings.

5. Chevy Chase Village possesses a special character which includes, but is not limited to, open vistas along streets and sidewalks.

6. Section 8-9(c)(3) of the Village Code requires a finding that "For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property."

7. The Board has found numerous properties where stoops, or stoops and steps, whether uncovered or with associated porticos, which are necessary to address the change in elevation from the ground to the entrance of a house, encroach into the standard twenty-five (25) foot front setback required by the covenants applicable to most properties.

9. Although the Board has in the past interpreted the term "structure", as used in the covenants imposed by the Chevy Chase Land Company, to include stoops, steps and porticos, the Board finds that either: a) the covenant authors did not intend steps and stoops, whether uncovered or with an associated portico, which are necessary to address the change in elevation from the ground to the primary entrance of a house, and to allow for reasonable, safe access, to be deemed structures for the purposes of the twenty-five (25) foot front setback for properties in the Village; or b) that the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce.

10. The Board finds that, for determining covenant compliance under Sections 8-9(b) and (c), stoops, or stoops and steps, whether uncovered or with an associated

portico, that are installed as a matter of necessity to address the change in elevation from the ground to the primary entrance of a house, which steps, stoops and associated portico are the minimum necessary to provide reasonable, safe, access, including for wheel chairs, should not be deemed "structures." For purposes of this policy, the dimensions of an associated portico shall be comparable to the stoop and shall include only those posts necessary for support.

11. All steps, stoops and associated porticos should continue to be deemed structures for the purposes of the setback requirements in Section 8-16 of the Village Code.

Now, therefore, on this 9th day of February, 2015, the Chevy Chase Village Board of Managers, acting under and by virtue of the authority given it by the Act of Legislature approved March 28, 1951, and Acts subsequent thereto, Division II of the Local Government Article of the Maryland Code, and the Chevy Chase Village Charter that:

1. Recitals. The recitals set forth above are incorporated in this Policy as the findings of the Board of Managers.
2. Policy. For the purpose of determining covenant compliance under Village Code Section 8-9(c)(3), stoops, or steps and stoops, whether uncovered or with an associated portico which are necessary to address the change in elevation from the ground to the primary entrance of a house, and are the minimum necessary to provide reasonable access, including for wheel chairs, shall not be considered "structures."

3. Setbacks. All steps, stoops and associated porticos shall continue to be deemed structures for the purposes of the setback requirements in Section 8-16 of the Village Code.
4. Term. This policy shall become effective immediately upon its passage and shall remain in effect until repealed by the Board of Managers.
5. This policy is intended to supersede and replace in its entirety the policy adopted by the Board of Managers on the 14th day of February 2011, entitled "Legislative Policy to Exclude Certain Uncovered Front Steps and Stoops from the Definition of 'Structures' for the Purposes of the Covenant Compliance as Required by Sections 8-11(b) (3) and 8-11(c)(3) of the Village Code for Special Permit and Variance Requests".

_____
Michael L. Denger, Chairman
Chevy Chase Village Board of Managers

ATTEST:

_____
Richard Ruda, Secretary

DATED: _____

CHAPTER 8 BUILDINGS AND BUILDING REGULATIONS

Article I. In General
Sec. 8-1. Definitions.

Sec. 8-2. County Building Code.

Sec. 8-3. Reserved.

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(b) Reports on permits issued.

Sec. 8-5. Building Permits.

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(d) Modification of approved plans.

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(f) Single family occupancy.
(g) Side setback.
(h) Rear setback.
(i) Frontage and area of lot.
(j) Corner lots.
(k) Rear of house.
(l) New construction.
(m) Lot coverage.
(n) Main building height.
(o) Injury to trees.
(p) Awnings and canopies.

Sec. 8-17. Unsafe structures.

Sec. 8-18. Demolition of buildings.

Sec. 8-19. Developmental nonconformities.
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(d) Height.

Sec. 8-21. Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors.
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(b) Interference with traffic.
(c) Obstruction of view.
(d) Height in rear yard.
(e) Height in front yard.
(f) Existing features.

(g) Arbors.

Sec. 8-22. Antennae, air conditioners, heat pumps and generators.
(a) Size and location.
(b) Setbacks and noise.

Sec. 8-23. Tennis courts.
(a) Setbacks.
(b) Enclosure.

Sec. 8-24. Swimming pools and outdoor therapeutic baths.
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(b) Enclosure of pools.
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(d) Protective cover.
(e) Lighting.
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(b) Adverse effect.
(c) Conditions.

Sec. 8-26. Driveways.

Article I. In General

Sec. 8-1. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Accessory building: A building subordinate to, and located on, the same lot or lots with a main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building, including without limitation sheds of any size.

Administrative Special Permit; administrative variance: Special Permits and variances that would otherwise require the approval of the Board of Managers but that may, in certain circumstances set out in Sec. 8-11, be granted by the Village Building Officer and Village Manager.

Alley: A right-of-way which provides secondary access for vehicles to the side or rear of abutting properties.

Antenna: Equipment designed for the transmission or reception of electromagnetic waves. All wires, poles, dishes, towers and other appurtenant equipment shall be deemed to be a part of the antenna.

Building: A structure having one (1) or more stories and a roof, designated primarily for the shelter, support or enclosure of persons, animals or property of any kind.

Building height: The vertical distance measured from the average elevation of the finished grade or pre-development grade, whichever is lower, along the front of the building to:

(1) The highest point of roof surface regardless of roof type, and

(2) The mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof.

Accessory structural elements located on the roof shall be subject to the building height requirements.

Building line: A line, parallel to a lot line, creating an area into which a structure must not project.

Building Officer: One member of the Board of Managers, appointed annually or at such other times as the Board of Managers may determine is in the public interest, to act as the designee of the Board of Managers to perform the functions of the Building Officer as described in this Chapter.

Cheek wall: A retaining wall immediately adjacent to steps that is in reasonable proportion to the rise and run of the steps.

Curb cut: A depression in the curb, for the purpose of accommodating a driveway that provides vehicular access between private property and an improved roadway, or where there is no curb, the intersection of the driveway and edge of the improved roadway.

Developmental nonconformity: Any part of an existing structure that was lawful when constructed or installed, but that no longer conforms to the requirements of this Chapter because of the amendment thereof.

Dumpster: A receptacle designed or used to store construction and/or demolition debris awaiting transportation to a disposal site, including, but not limited to, detached wheeled trailers.

Floor area ratio (FAR): The ratio of the total gross floor area of all buildings on a lot to the total square footage of the lot.

Footprint: The external or outer boundaries of a building's architectural plan. "Footprint" includes fixed external protrusions such as bay or bow windows, porches, porticos, decks, stoops and eaves.

Front lot line: The boundary line or lines of a lot separating the lot from any and all streets.

Front yard: The area located between the front lot line and the front main building line or, in cases where no building exists, the front building restriction line.

Gross floor area: The sum of the gross horizontal areas of all stories (whether or not a floor has actually been laid) of all buildings on the lot. Gross horizontal areas are measured from the exterior faces of exterior walls.

(1) The following areas are included in the gross floor area for the purpose of computing the floor area ratio.

a. Except as provided below, all floor area at or above the first floor joists.

b. If an attic has a clear ceiling height of seven (7) feet at any point, all areas of the attic with at least five (5) feet of clear ceiling height shall be included.

c. Multi-story space. Any space with a clear ceiling height greater than ten (10) feet from floor to ceiling shall count at the rate of ten (10) percent for each foot of average height over ten (10) feet, rounded to the nearest foot. For example, a room with an average ceiling height of fourteen (14) feet will count at the rate of one hundred forty (140) percent (one hundred (100) percent for the base floor and forty (40) percent for the virtual floor).

d. Enclosed porches. A porch shall be deemed enclosed if it is enclosed on at least three (3) sides. A side shall be deemed enclosed if:

1. It is screened; or

2. It has a wall over thirty-eight (38) inches in height.

e. Basements and cellars. All sections of a basement or cellar with at least five (5) vertical feet of exposed exterior wall shall count toward gross floor area at the rate of seventy-five (75) percent.

(2) The following areas are excluded from the gross floor area for the purpose of computing floor area ratio.

a. The first two hundred forty (240) square feet of one accessory building per lot.

b. If an attic does not have a clear ceiling height of seven (7) feet at any point, all attic space.

c. If an attic has a clear ceiling height of seven (7) feet at any point, all attic space with a clear ceiling height of less than five (5) feet.

d. Unenclosed roofed porches.

e. Porches, balconies, patios, breezeways, carports, decks, overhangs, eaves, awnings and similar structures which are enclosed on fewer than three (3) sides.

f. Sections of a basement or cellar with less than five (5) vertical feet of exposed exterior wall.

Lot: The land designated as a separate and distinct lot or parcel of land on a legally recorded subdivision plat or deed filed among the land records of the County (also sometimes referred to as a "property").

Lot coverage: The portion of a lot which is covered by buildings, accessory buildings, and raised structures such as covered and uncovered porches, balconies, and decks, covered and uncovered steps, stairways, and stoops, and bay and bow windows . Lot coverage does not include: (1) eaves, gutters, and similar overhangs; and (2) features that are not raised such as walkways, patios, terraces, driveways, swimming pools and tennis courts.

Outdoor therapeutic bath: A bath commonly known as a spa or hot tub, or having similar characteristics, built above or below ground outside of a residential building, provided such bath does not exceed a depth of forty-eight (48) inches at any point or a diameter or length of eight (8) feet. If these dimensions are exceeded, the bath shall be considered a swimming pool for the purposes of this Chapter.

Plane length: The horizontal length along the face of any exterior wall of a building.

Plate height: For a building with a flat or a sloping roof, the height to the top horizontal framing member of a wall from the top surface of the first finished floor.

Portable storage unit: A container designed or used for the outdoor storage of personal property which is movable and is typically rented to owners or occupants of a property for their temporary use.

Portable swimming pool: Any swimming pool (as defined below), which is movable and less than eight (8) feet in diameter or length, shall be deemed a portable swimming pool.

Public right-of-way: Any land within the borders of the Village over which the Village has control, ownership, or which has been dedicated to public use, including any sidewalk or street.

Rear yard: The area located between the rear main building line and the rear lot line. In the case of a corner lot, the determination as to which portions of the property constitute the rear and side yards

shall be made by the owner/s of the lot in accordance with the Montgomery County zoning ordinance for determining the rear yard of a corner lot.

Side wall: A wall running parallel (or approximately so) to a side property line.

Single family: An individual, or two (2) or more persons related by blood, adoption or marriage, together with not more than one (1) other unrelated person, excluding service personnel, living together as a single housekeeping unit.

Special Permit: Permission granted by the Board of Managers pursuant to, and subject to the conditions of, Sec. 8-9(b) of this Chapter, to construct, install, remove or alter a structure or planting, or take any other action for which a Special Permit is required by this Chapter. Except as provided in Sec. 8-11, a Special Permit can be granted only by the Board of Managers.

Street: A public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. A public sidewalk constitutes an adjunct or accessory to a street to be used for pedestrian traffic.

Structure: An assembly of materials forming a construction including, but not limited to, buildings, accessory buildings, open sheds, shelters, tennis courts, antennae, air conditioners, generators, heat pumps, swimming pools, therapeutic baths and permanently anchored play equipment, but not including walkways, patios, or driveways.

Swimming pool: Any outdoor pool or container for water, either above or below ground, over eighteen (18) inches deep at any point or having a capacity for a minimum of eighteen (18) inches of depth, which has been dammed up, produced, or constructed by human labor and skill and which is used or intended to be used for swimming, wading, diving or water play. The words "swimming pool" shall not include a portable pool eight (8) feet or less in diameter or length, or an outdoor therapeutic bath as previously defined herein.

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

Walkway: An improved surface greater than twenty (20) square feet in total area constructed on a base and intended for private use by pedestrians.

Wall: An architecturally solid construction of stone, brick or other material, greater than twelve (12) inches in height, and intended for the purposes of privacy, security, enclosure, or to hold back earth.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-02-02, 10-14-02; No. 06-01-08, 06-16-08; No. 10-05-08, 12-08-08; No. 06-03-09, 07-13-09; No. 03-02-10, 05-10-10; No. 04-01-14, 04-14-14.)

Sec. 8-2. County Building Code.

The Building Code of Montgomery County, Maryland, shall be applicable in the Village as a County ordinance and shall be in addition to and not in lieu of the specific provisions of this Chapter or the building restrictions which are incorporated in deeds of conveyance within the Village. Nothing in this Chapter shall be construed to relieve any person from the requirement of obtaining a Building Permit from the County Department of Permitting Services or its successor agencies, or from obtaining approval from any other County or State agency regulating such construction. On any property within the Village, any new construction, or material alteration, replacement or addition to an existing building, structure or property, shall be governed by the County Building Code, except as otherwise required by this Chapter or the building restrictions incorporated in deeds of conveyance. Any person proposing to erect such new building or structure, or make a material alteration, replacement or addition to such existing building, structure or property, must first obtain any required County permit and then any required Village Building Permit as provided in Sec. 8-5.

(9-13-93; No. 04-01-14, 04-14-14.)

Sec. 8-3. Reserved.

Article II. ADMINISTRATION

Division A. Permits

Sec. 8-4. Delegation of authority by Board of Managers.

(a) Delegation to Village Manager. Under the authority vested in it by the legislature of the State, and subject to the review authority set forth in Sec. 8-9, the Board of Managers has delegated to the Village Manager the duty and authority to enforce, or cause to be enforced, the requirements of all deeds or covenants of properties situated within the Village and the requirements of this Building Code. In the exercise of this duty, the Village Manager is authorized to issue Building Permits.

(b) Report on permits issued. The Village Manager shall report to the Board of Managers at each regular monthly meeting all Building Permits issued during the preceding month.

(9-13-93; No. 04-01-14, 04-14-14)

Sec. 8-5. Building Permits.

A. Residential Building Permit - Any person intending to construct, install, replace, alter, add to, expand, or make any material alteration to any of the following, whether on private property or in the public rights of way (see Chapter 25) must first obtain any required County Building Permit, and then obtain any required Building Permit from the Village. While not all structures require a Building Permit, all structures as defined in this Chapter are subject to location and setback requirements.

(1) A new building,

(2) An existing building where such action would expand the existing boundaries or footprint or increase the height of such existing building,

(3) A garage or accessory building, including sheds of any size (see Sec. 8-20),

(4) A raised exterior deck,

(5) A swimming pool or outdoor therapeutic bath (see Sec. 8-24),

(6) A tennis court (see Sec. 8-23),

(7) Permanently anchored play equipment (see Sec. 8-21(f)),

(8) A lamp post or hand rail (see Sec. 8-16(c)(2) and (3), Sec.8-21 and Chapter 25),

(9) A driveway or any material part thereof (see Sec. 8-26 and Chapter 25),

(10) A walkway or any material part thereof (see Chapter 25),

(11) A fence, wall or any material part thereof (see Sec. 8-21 and Chapter 25),

(12) Any external antenna, air conditioner, generator or heat pump, including the replacement of any such external feature that is a developmental nonconformity (see Sec. 8-19 and 8-22).

(13) A geothermal system,

(14) Impermeable surfaces, such as patios, terraces or other paving, or gutters, sewers,

stormwater or drainage systems, that alter the existing flow of water and/or may cause water to flow onto neighboring property or onto the public right-of-way (see Sec. 8-25),

(15) A dumpster (see Sec. 8-7), or

(16) A portable storage unit (see Sec. 8-7).

B. Non-Residential Building Permit - On any property within the Village which is not residentially zoned, any new construction, or material alteration, replacement or addition to an existing building or structure shall be governed by the County Building Code; provided, however, that any person proposing to erect such a new building or structure or make a material alteration, replacement or addition to such an existing building property must first obtain any required County Building Permit, and then obtain any required Building Permit from the Village.

(9-13-93; No. 02-02-10, 02-16-10; No. 06-01-13, 06-10-13; No. 04-01-14, 04-14-14.)

Cross reference(s)--Urban Forest, Ch. 17. Public Rights-of-Way, Ch. 25. Fine for violation of this Section, Sec. 6-3(a)(1).

Sec. 8-6. Building Permit issuance and conditions.

(a) Application. An application for a Building Permit, and for any Special Permit, variance and license requests, shall be made to the Village Manager accompanied by a set of plans and specifications of the construction intended, at a scale sufficient to facilitate review by the Village Manager. The Village Manager shall retain a copy thereof. To be accepted as complete by the Village Manager, the plans shall include a survey that, in the judgment of the Village Manager, is accurate and reasonably current, and show the location of the existing and intended structures on a site plan of the applicant's lot. When the plans and specifications are approved, the Village Manager shall indicate approval thereon and issue a Building Permit. By application for a Building Permit, Special Permit, or variance or license, the applicant and owner give consent to the Village Manager or designee to enter onto the property to inspect any activity encompassed in the permit, variance or license, as often and at such times as deemed necessary during the course of the activity to ensure compliance with this Chapter, covenants, and other applicable law.

(b) Conditions. The Village Manager is authorized to impose conditions to protect the public health, safety or welfare when issuing a Building Permit. The conditions which the Village Manager may impose shall include, but are not limited to:

(1) Prohibiting or limiting the parking of contractors' or other construction-related vehicles in the public right-of-way;

(2) Limiting the locations upon private property where contractors' or other construction-related vehicles may be parked;

(3) Limiting the locations upon which construction materials may be stored;

(4) Limiting the locations upon which portable toilets may be placed or maintained, including prohibiting the placing or maintaining of portable toilets;

(5) Limiting the locations upon which construction debris may be stored, whether or not such debris is contained;

(6) Requiring that construction and/or demolition activities strictly comply with a tree preservation plan approved by the Village Manager;

(7) Such other terms or conditions as may be determined by the Village Manager to be necessary to protect the public health, safety or welfare.

(c) Duration. Work on buildings or alterations or additions must be commenced within six (6) months after the issuance of any Building Permit, and must be completed within one (1) year from the date of

issuance. The Village Manager may grant an extension of up to one additional year, upon such conditions as the Village Manager may set, upon a reasonable showing by the permittee that there has been no material change in circumstances since the issuance of the permit and that, despite due diligence by the permittee, additional time is necessary to accomplish the approved construction. A denial of an extension by the Village Manager may be appealed to the Board of Managers within 15 days of the effective date of such denial pursuant to Sec. 8-10.

(d) Modification of approved plans. No person or persons shall erase, modify or alter any plans or specifications after they have been approved and a permit issued thereon. If during the progress of work it is desired to deviate materially from the approved plans or specifications, notice of such intent shall be given in writing to the Village Manager, and his/her written approval shall be obtained before such amendment is made. No person or persons shall proceed with any activity requiring a Village Building Permit except in accordance with the approved plans and specifications, and any amendments approved by the Village Manager.

(e) Covenants. No Building Permit shall be issued unless it conforms to the applicable requirements and covenants of deeds of conveyance.

(9-13-93; No. 9-2-95, 9-11-95; No. 3-1-96, 3-11-96; No. 3-4-96, 3-11-96; No. 3-01-99, 4-05-99; No. 06-01-05, 06-13-05; No. 02-03-09, 02-09-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Municipal infraction fines, Sec. 6-3(a)(3) and Sec. 6-3(a)(16).

Sec. 8-7. Dumpsters and portable storage units.

(a) Duration. The Village Manager may issue a permit for a dumpster for up to ninety (90) days, and a permit for a portable storage unit for up to thirty (30) days.

(b) Extension. Notwithstanding Sec. 8-6, the Village Manager may authorize an extension of a permit for a dumpster for up to ninety (90) days, and a permit for a portable storage unit for up to thirty (30) days, upon such conditions as the Village Manager may deem necessary, provided the applicant demonstrates that factors beyond the applicant's control warrant such extension.

(c) Location. No person shall place or maintain a dumpster or a portable storage unit or dumpster on public property or in the public right-of-way.

(No. 10-02-02, 10-14-02; No. 10-05-08, 12-08-08; No. 04-01-14, 04-14-14.)

Sec. 8-8. Reserved.

Division B. Appeals, Special Permits and Variances

Sec. 8-9. Review authority of Board of Managers.

In addition to any other authority it may have, the Board of Managers shall have the following powers:

(a) Appeals. To hear and decide appeals on a de novo basis arising from the granting or denial of a Building Permit or any allegation that there is an error in any requirement, determination or decision by the Village Manager in the administration or enforcement of this Chapter.

(b) Special Permits. To hear and decide any application for a Special Permit required by this Chapter. Such a Special Permit may be granted by the Board of Managers only if it finds that:

(1) The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;

(2) The proposed Special Permit can be granted without substantial impairment of the intents and purposes of this Chapter; and

(3) For all Special Permits, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property.

(c) Variances. To hear and decide any application for a variance from the requirements of this Chapter. Such a variance may be granted by the Board of Managers only if it finds that:

(1) The proposed variance is required because special conditions exist whereby the enforcement of the requirements of this Chapter would result in unwarranted hardship and injustice to the owner.

(2) The proposed variance would most nearly accomplish the intents and purposes of the requirements of this Chapter; and

(3) For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-2-05, 10-27-05; No. 06-01-13, 06-10-13; No. 04-01-14, 04-14-14.)

Cross reference(s)—Public Rights-of-Way, Chp. 25.

Sec. 8-10. Review procedures.

(a) Filing of appeals. Any person aggrieved by a decision or action of the Village Manager arising from the granting or denial of a Building Permit may file a de novo appeal to the Board of Managers. Such appeal shall be filed within (30) days after issuance of the decision by the Village Manager. The Village Manager shall transmit to the Board of Managers all documents and papers pertaining to the appeal which shall constitute the record on appeal.

(b) Applications for Special Permits or variances. An applicant who has been denied a Building Permit by the Village Manager for nonconformance with this Chapter may apply to the Board of Managers for a Special Permit or variance. An application shall also be made prior to construction or installation of any structure that does not require a Building Permit if the location or setback would require a variance. The application and accompanying maps, plans or other information shall be submitted to the Village Manager, who shall place the matter on the board agenda and announce a public hearing thereon, which shall be held at a regular monthly or special meeting of the Board of Managers. The Village Manager shall give written notice of such hearing to the applicant and owner, and to abutting and confronting property owners, at least ten (10) days prior to the meeting of the Board of Managers at which such application is to be heard. In addition, the property shall be posted with a sign which shall include the case number, nature of the application, and the date, time and place of the hearing. The sign shall be placed no more than five (5) feet from the sidewalk, if one exists, or five (5) feet from the curb or the edge of the paved portion of the street if there is no curb. In the case of a lot abutting more than one (1) street, a sign shall be posted for each abutting street.

(c) Quorum. For the conduct of any such review hearing, a quorum shall be not less than four (4) members of the Board of Managers and in all instances an affirmative vote of four (4) members of the Board of Managers shall be required to overrule any decision or action of the Village Manager or to approve any Special Permit or variance, provided that nothing in this section shall be construed to relieve any person from the requirements of obtaining any required County Building Permit, Special Permit or variance.

(d) Decision. At the review hearing, any party may appear in person or by agent or attorney. In exercising its powers, the Board of Managers may reverse or affirm, wholly or in part, or may modify, the decision or action of the Village Manager as it deems appropriate. In any event, the decision of the Board of Managers may not expand the request originally advertised to the public. The decision of the Board of Managers shall be made in writing. The effective date of any decision of the Board of Managers shall be the date that notice of the board's written decision is mailed to the appellant.

(e) Record of decisions. The Secretary of the Board of Managers shall keep minutes of all review

hearings, showing the vote of each member, and whether any member was absent or declined to vote. These minutes and the Board of Managers' decisions shall be filed in the Village office and shall be a public record.

(f) Extension. The Village Manager may extend any time limit imposed as a condition of a Special Permit or variance for a period of up to one additional year upon a reasonable showing that there has been no material change in circumstance since the Special Permit or variance was granted and that, despite due diligence by the permitee, additional time is necessary to accomplish the approved construction.

(9-13-93; No. 11-1-93, 11-22-93; No. 9-2-95, 9-11-95; No. 10-1-01, 10-8-01; No. 10-02-05, 10-27-05; No. 04-01-14, 04-14-14.)

Sec. 8-11. Administrative Special Permits, administrative variances and the Building Officer.

(a) Administrative action. Notwithstanding anything in this Chapter to the contrary, variances and Special Permits that would otherwise be subject to approval by the Board of Managers may be granted administratively as provided in this Section.

(b) Scope of administrative action. The Building Officer and the Village Manager, by joint action, may grant administrative Special Permits and administrative variances for the following construction:

(1) Replacement of an existing fence, provided that there are no material differences between the replacement fence and the existing fence with respect to location, height and materials and that the replacement fence does not block light and air to a greater extent than the existing fence.

(2) Replacement of an existing driveway, provided that:

(a) the replacement driveway is not wider than the existing driveway, and

(b) the replacement driveway is in substantially the same location as the existing driveway.

(3) Replacement of an external air conditioner, generator or heat pump (collectively referred to as "equipment"), provided that the replacement equipment is not materially larger and does not encroach farther into any setback than the existing equipment.

(4) Demolition of buildings.

(c) Application process. Upon receipt of an application that has been accepted as complete for an administrative Special Permit or administrative variance, the Village Manager shall give written notice of the application to all abutting and confronting property owners and to all members of the Board of Managers. In addition, the property shall be posted with a sign which shall include the case number, nature of the application, and the date by which comments may be submitted. An abutting or confronting property owner, a member of the Board of Managers or a Village resident or owner, within 15 days of the date notices are issued, may submit written comments and/or may request that the application be submitted to the Board of Managers in accordance with Sec. 8-10 of this Chapter. The Building Officer and the Village Manager may, in their discretion, grant a request to have the application considered by the Board of Managers. The Building Officer and the Village Manager may, on their own initiative, refer the application to the Board of Managers. Notwithstanding the foregoing, for Special Permits and variances for equipment described in Sec. 8-11(b)(3), the Building Officer and the Village Manager may waive the 15-day notice and comment period upon a showing of good cause. Absent the filing of request for review by the Board of Managers, the administrative Special Permit or administrative variance may be granted by the Building Officer and Village Manager.

(d) Decision. The decision to grant or deny a request for an administrative variance or Special Permit shall be made in writing. The effective date of the decision shall be the date the written decision is approved by the Building Officer and the Village Manager. The decision shall promptly be provided to the applicant and to any other person who submitted comments and/or requested a hearing by the Board of Managers.

(e) Appeal. A denial by the Building Officer and the Village Manager may be appealed de novo to the Board of Managers within 15 days of the effective date of the decision denying the administrative Special Permit or administrative variance. (See Sec. 8-10.)

(No. 09-01-11, 09-12-11; No. 04-01-12, 04-09-12; No. 04-01-14, 04-14-14.)

Sec. 8-12. Reserved.

DIVISION C. ENFORCEMENT

Sec. 8-13. Remedial action, stop work order, revocation, violations.

(a) Authority of the Village Manager. Whenever the Village Manager determines that any activity that requires a Building Permit within the Village is being carried out in a manner which threatens the public safety or health, or that any work is being carried out in violation of this Code, the Village Manager may:

(1) Impose such conditions, in addition to any conditions that were imposed upon the issuance of the Building Permit for the project under Sec. 8-6(b), as the Village Manager deems necessary to protect the public health, safety or welfare, and/or

(2) Suspend or revoke the Building Permit for the project if the Village Manager deems such action necessary to protect the public health, safety or welfare, and/or

(3) Request the Board of Managers to take such remedial action as is necessary to eliminate the threat to the public safety or health, or, if he/she certifies that time is critical, he/she may issue a stop work order requiring that such activity to be stopped immediately and promptly notify the chair of the Board of Managers of this action and provide a written certification. A stop work order may be approved or disapproved by the Board of Managers.

a. The stop work order described herein shall be issued by the Village Manager to the owner of the property and the permit holder and served by personal service or by mailing a certified mail notice and by posting. The posting of the notice on the property shall be sufficient service upon all persons physically on the property.

b. It shall be unlawful for any person to continue work in or about such construction after having been served with a stop work order, except such work as is necessary to remove a violation or to eliminate an unsafe condition.

(b) Revocation of permit. A Building Permit may be revoked by the Village Manager if the work has stopped for thirty (30) consecutive days.

(c) Reforestation. If construction and/or demolition activities do not strictly comply with a tree preservation plan imposed under Sec. 8-6(b) and a tree, the removal of which is regulated by Chapter 17, dies within five (5) years of such violation, the owner of the property on which such violation occurred shall reforest with a deciduous hardwood canopy tree of at least 2½ inch caliper at the time of installation and of a species that attains a mature height of at least 45 feet. If the permit holder is not the owner of the property, the permit holder and the owner shall be jointly and severally obligated to reforest.

(d) Alteration or removal of equipment or work. Any person violating or failing to comply with this Chapter in whole or in part shall make or cause to be made such alteration or removal of construction equipment or work commenced or finished as may be necessary to abate the violation. If such remedy is not completed within fifteen (15) days from the date of notification of violation, unless the Board of Managers by a carried motion establishes a different time, the Board of Managers may abate the violation, and the cost of such work and the damages resulting therefrom shall be paid by such person upon request of the Board of Managers. The cost of any remedial action and the damages resulting from any such violation may be specially assessed against the property upon which the violation existed to be collected in the same manner

as municipal taxes or collected by a suit for damages.

(e) Failure to complete work. Failure to complete all work, in accordance with the terms and conditions of a Building Permit or Special Permit, by the expiration date of such permit (as the same may be extended pursuant to Sec. 8-6(c), shall be a violation of this Chapter. Each day after the permit expires that such work is incomplete shall constitute a separate violation.

(f) Failure to comply with permit or variance. Failure to comply with any term or condition of a Building Permit, or any term or condition of any applicable approved variance, shall be a violation of this Chapter. Each day that a violation exists shall constitute a separate violation.

(9-13-93; No. 06-01-05, 06-13-05; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(4).

Sec. 8-14. Municipal infraction; penalties.

(a) Prosecution and penalties. All property owners and occupants are responsible for compliance with this Chapter. Violation of any provision of this Chapter shall be a municipal infraction unless otherwise specifically provided. Any person or persons guilty of a municipal infraction shall be subject to such prosecution and penalties as are provided in Chapters 5 and 6 of this Code. Any person who violates this Chapter or directs or allows another to commit an act that violates this Chapter, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this Chapter on his or her property, shall be guilty of a violation and shall be jointly and severally subject to prosecution and the penalties provided in Chapters 5 and 6 of this Code. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(b) Legal action. The Village may institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this Chapter in any court of competent jurisdiction.

(9-13-93; No. 02-03-09, 02-09-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Municipal infraction fines, Sec. 6-3 (a).

Sec. 8-15. Reserved.

ARTICLE III. PRIVATE PROPERTY REGULATIONS

Sec. 8-16. Residential building construction prohibitions.

(a) Compliance with this Chapter. On any property zoned in a residential category, no person shall construct any building, structure or shall make any material alteration or addition to the exterior of an existing building or other structure except in accordance with the restrictions set forth in this Chapter.

(b) Residential purposes. All houses in the Village shall be built for residential purposes exclusively, except accessory buildings for use in connection with such residences. No trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon any premises within the Village.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, except that:

(1) One flagpole, not exceeding fifteen (15) feet in height, may be erected not less than fifteen (15) feet from the front lot line; and

(2) Handrails may be installed:

a. on or beside steps in a yard where there is a change in grade upon a finding by the

Village Manager that the handrails are required for safety, and

b. on or beside steps leading to a door or porch upon a finding by the Village Manager that the handrails are required for safety; and

(3) One lamp post with a single lantern, not exceeding ten (10) feet in height, that complies with Sec. 8-21 may be installed.

(d) Recorded lots. Every building shall be located on a recorded lot.

(e) One dwelling on lot. There shall not be more than one (1) single-family dwelling on one (1) lot.

(f) Single family occupancy. Any house erected on any lot shall be designed and constructed for the occupancy of a single family.

(g) Side and rear setback. Except as otherwise specifically stated in this Chapter, no part of any building or structure shall be erected or maintained within seven (7) feet of the side or rear lot lines, nor within ten (10) feet of the nearest adjacent dwelling, provided, however, that externally attached gutters shall not be considered part of any building or structure for purposes of this subsection (see Sec. 8-19.)

(h) Rear setback for main building. 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.

(i) Frontage and area of lot. No permit shall be issued for the construction of any dwelling house upon a lot having a frontage of less than seventy-five (75) feet and an area of less than seven thousand five hundred (7,500) square feet; provided, however, that these limitations shall not apply to any lot having a frontage of less than seventy-five (75) feet and an area of less than seven thousand five hundred (7,500) square feet which is embraced in any subdivision of lots recorded prior to July 12, 1982.

(j) Corner lots. No permit shall be issued for the erection of more than one (1) dwelling house on any corner lot, as such lot may be embraced in any subdivision duly recorded prior to July 12, 1982, but this subsection shall not apply in the case of any lot containing six thousand five hundred (6,500) square feet or more, which shall have been created by a re-subdivision of any such corner lot duly authorized by the Maryland-National Capital Park and Planning Commission.

(k) Rear of house. No permit shall be issued for the construction of any dwelling house, the rear of which shall face upon any public street.

(l) New construction. The restrictions in subsections (2) through (5) below shall apply only to the construction of new houses on vacant lots and to construction subsequent to the substantial demolition of an existing main building.

(1) For the purposes of this subsection 8-16(l) the following definitions and rules apply.

A. The term "substantial demolition" shall mean the removal of fifty (50) percent or more of the area of exterior walls in existence as of June 16, 2008, measured by wall plane length and height.

B. In calculating the floor area ratio, the square footage of a lot shall include any land area severed from the lot by a conveyance to the Village, in fee simple, without monetary compensation.

(2) No permit shall be issued for construction which would result in floor area ratio in excess of .50. Notwithstanding the foregoing, for lots containing less than six thousand (6,000) square feet, buildings may contain gross floor area of three thousand (3,000) square feet.

(3) No permit shall be issued for construction which would result in gross floor area of greater than seven thousand five hundred (7,500) square feet, unless a Special Permit has been

obtained from the Board of Managers.

(4) For all buildings, the maximum side wall plate height within twelve (12) feet of a side lot line shall be twenty-one (21) feet.

(5) For all buildings, the side wall plane length shall not exceed forty (40) feet unless there is an offset, jog, or articulation in the side wall plane that measures at least two (2) feet in depth and five (5) feet in length.

(m) Lot coverage. The lot coverage on any residentially zoned lot shall not exceed thirty-five (35) percent.

(n) Main building height. None of the following restrictions may be exceeded.

(1) The height of a main building shall not exceed thirty-five (35) feet when measured to the highest point of the roof surface regardless of roof type.

(2) The height of a main building shall not exceed thirty (30) feet when measured to the mean height level between the eaves and ridge of a gable, hip, mansard or gambrel roof.

(3) The height of a main building shall not exceed thirty (30) feet when measured at the roof surface of a flat roof.

(o) Injury to trees. Unless a Special Permit has been obtained from the Board of Managers, no permit shall be issued for the construction of any improvement which may reasonably be expected to injure a tree:

(1) Of any size on an abutting or nearby property, unless the owner of such property grants written permission; or

(2) The removal of which is regulated by Chapter 17.

(p) Awnings and canopies. No awning, canopy or other protrusion shall be erected between the front building restriction line and the front lot line.

(9-13-93; No. 11-1-93, 11-22-93; No. 6-01-97, 7-14-97; No. 10-01-03, 10-13-03; No. 09-02-05, 09-12-05; No. 06-01-08, 06-16-08; No. 06-03-09, 07-13-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(5).

Sec. 8-17. Unsafe conditions during construction.

If the Village Manager determines that any activity requiring a Building Permit within the Village or any part thereof to be dangerous or to constitute a safety hazard, the Village Manager shall serve notice upon the owner of such property, or the owner's agent, and the occupant of such property. The Village Manager may request that the structure or any part thereof is not to be occupied and should be immediately vacated. This notice shall be in writing and shall be posted on the property and personally served upon the occupant and owner. If the Village Manager is unable personally to serve the occupant and the owner, service may be accomplished by posting the property and mailing a copy of the notice by certified mail to the property address and to such other address as the owner or the owner's agent has provided. The written notice shall set forth in detail the repairs necessary to remedy the dangerous condition of the structure. If the owner or occupant refuses or neglects to correct the dangerous condition within such reasonable time as the Village Manager may direct, then the owner and occupant shall be guilty of a municipal infraction and shall be subject to the penalties therefore.

(9-13-93; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(6).

Sec. 8-18. Demolition of buildings.

Any person intending to demolish, raze or tear down more than fifty (50) percent of the exterior features of an existing building, garage or accessory building within the Village must first obtain an administrative Special Permit pursuant to Sec. 8-11 for such demolition in order to ensure that such work will be carried out in such a manner that abutting property owners will not be adversely affected and that the interests of the Village in public health, safety and welfare are not jeopardized by such work.

(9-13-93; No. 11-1-93, 11-22-93; No. 04-01-14, 04-14-14.)

Sec. 8-19. Developmental nonconformities.

(a) Replacement and repair. A developmental nonconformity that is part of a structure or is attached to a structure may be replaced or repaired. A developmental nonconformity that is detached from a structure may be replaced or repaired only if such work involves less than fifty (50) percent of the nonconformity. A developmental nonconformity may not be expanded.

(b) Buildings existing prior to June 16, 2008. Notwithstanding any provision to the contrary contained in Sec. 8-16 or 8-20, a building or structure existing prior to June 16, 2008 that sustains a total physical loss or a substantial physical loss (fifty (50) percent or more) due to accidental causes including, but not limited to fire, storm, falling tree(s), flooding, natural disaster, acts of war or terrorism, may be rebuilt, provided:

(1) The replacement building or structure does not encroach farther into any setbacks than the building or structure that was lost,

(2) The footprint of the replacement building or structure is not larger than the previous footprint for the main building or structure, and

(3) The replacement building or structure does not exceed the building height of the building or structure that was lost.

(9-13-93; No. 06-01-08, 06-16-08; No. 04-01-14, 04-14-14.)

Sec. 8-20. Garages and accessory buildings.

(a) Rear yard coverage. No detached garage or other accessory building or structure shall be erected, except in the rear yard of any premises. The combined lot coverage of all accessory buildings shall not exceed twenty (20) percent of the rear yard.

(b) Rear and side setbacks. Any detached garage or other accessory building shall be located at least five (5) feet from any rear or side lot line or alley line.

(c) Increased setbacks. For any detached garage or other accessory building with a length along a rear or side lot line which has a linear dimension greater than twenty-four (24) feet, the minimum setback from that rear or side lot line shall be increased from the requirement in subsection (b) above at a ratio of two (2) feet for every one (1) foot that the dimension exceeds twenty-four (24) linear feet.

(d) Height. No person shall construct any detached garage or other accessory building, or make any material replacement, alteration or addition to any existing detached garage or other accessory building, which shall exceed one (1) story in height.

(1) The height of any detached garage or other accessory building, when measured from the average grade in front of the building to the highest point of the roof surface of a flat roof, shall not exceed twelve (12) feet.

(2) The height of any detached garage or other accessory building, when measured from the average grade in front of the building to the highest point of the roof surface regardless of roof type, shall not exceed sixteen (16) feet.

(e) Attachment of any garage or other accessory building to a dwelling house shall not be permitted unless the resulting building complies with all requirements of this Chapter for a main building, including the residential building construction prohibitions set forth in Sec. 8-16.

(9-13-93; No. 06-01-08, 06-16-08; No. 04-01-14, 04-14-14.)

Sec. 8-21 Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors.

(a) Location. No person shall install any tree trunk, hedge, shrubbery, fence, wall, lamp post or hand rail on private property within three (3) feet of a public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the private property, within six (6) feet of the curb, or if there is no public sidewalk and no curb, within six (6) feet of the nearest edge of the street or alley.

(b) Interference with traffic. No fence, wall, cheek wall, tree, hedge, shrubbery, lamp post or hand rail on private property shall be permitted to extend into public sidewalks, streets or alleys so as to interfere in any manner with pedestrians or vehicular traffic.

(c) Obstruction of view. No person shall install or maintain any fence, wall, tree, hedge, shrubbery, lamp post or hand rail on private property at or near any street intersection in such a manner or at such a height as to interfere with a clear and unobstructed view of approaching pedestrians or vehicular traffic.

(d) Fence and wall height in rear yard. No person shall construct any fence or wall at any location between the front building restriction line and the rear property line nor along any rear property line having a height greater than six and one-half (6 ½) feet. The measurement shall be made from the surface of the ground of the lower yard next to the fence or wall. With the written consent of the owner(s) of any adjoining property, a fence or wall of greater height than six and one-half (6 ½) feet at its highest point, may be erected or permitted if a Special Permit is obtained from the Board of Managers.

(e) Fence and wall height in front yard. No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

(f) Existing features. Notwithstanding subsection (a) above, any play equipment, fence, (except as provided in subsection (f) (6)), wall, tree, hedge or shrubbery existing on December 8, 2008, or any lamp post existing on April 14, 2014, may be maintained, repaired or replaced so that the maintained, repaired or replacement structure or growth:

(1) Is in the same location as the existing structure or growth;

(2) Does not encroach any farther into the public improvement setback than the existing structure or growth;

(3) Does not exceed the height of the existing structure or growth;

(4) Is of substantially similar material or species as the existing structure or growth; and

(5) Is installed or constructed within six (6) months of the removal of the existing structure or growth.

(6) In the event that a sidewalk, street or alley maintained by the Village or other public entity is installed adjacent to a fence after the permit which authorized the construction of the fence, or if it is determined by the Village Manager to be necessary for the public's health, safety or welfare, a replacement fence must comply with the setbacks required in subsection (a).

(g) Arbors. An arbor or trellis, of lattice or other open construction, shall be subject to the same setback and location requirements as a fence, provided it does not exceed three (3) feet in depth, five (5) feet in width, and eight and one-half (8 ½) feet in height when located in a front yard, or five (5) feet in depth, ten and one-half (10 ½) feet in width, and eight and one-half (8 ½) feet in height when located in a side or rear yard. An arbor that is not of open construction or that exceeds any of the foregoing dimensions shall be subject to the setback requirements for accessory structures.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-03-08, 12-08-08; No. 10-04-08, 12-08-08; No. 02-04-10, 03-08-10; No. 04-01-14, 04-14-14; No. 11-03-14, 11-10-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(7).

Sec. 8-22. Antennae, air conditioners, heat pumps and generators.

(a) Size and location. An antenna may not extend more than six (6) feet above the highest point of the building to which it is attached.

(1) No antenna shall exceed one (1) meter in diameter without a Special Permit from the Board of Managers. In addition to any other requirements for a Special Permit, the Board of Managers shall not grant a Special Permit for an antenna under this Section unless it finds that the antenna will be located and screened so it is not visible from adjacent or public property.

(2) Free standing antennae are prohibited.

(b) Setbacks. No person may:

(1) Install an external air conditioner or heat pump within seven (7) feet of any side lot line or rear lot line or in the front yard of any property.

(2) Replace an external air conditioner or heat pump within five (5) feet of any side lot line or rear lot line or in the front yard of any property.

(3) Install or replace a generator within seven (7) feet of any side lot line or rear lot line or in the front yard of any property.

All external air conditioners, heat pumps and generators must comply with County and Village noise regulations.(see Sec. 8-11(b)(3)).

(9-13-93; No. 11-1-93, 11-22-93; No. 9-01-99, 9-13-99; No. 04-01-14, 04-14-14.)

Sec. 8-23. Tennis courts.

(a) Setbacks. A tennis court must be set back at least fifteen (15) feet from the front building restriction line of the property or from the main building line, whichever is greater. No tennis court shall be constructed within twenty-five (25) feet of any side or rear lot line. All measurements shall be made from the outermost portion of the court, including the fencing. Property shall include all lots under common ownership.

(b) Enclosure. Every tennis court or the property on which such tennis court is situated shall be surrounded by a fence or wall or equivalent enclosure of not less than six and one-half (6½) feet in height.

(9-13-93; No. 11-1-93, 11-22-93; No. 9-01-99, 9-13-99; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(8).

Sec. 8-24. Swimming pools and outdoor therapeutic baths.

(a) Setbacks. Any swimming pool or therapeutic bath shall be located as follows:

(1) A swimming pool must be set back at least fifteen (15) feet from the front building restriction line of the property or from the front main building line, whichever is greater.

(2) No swimming pool shall be placed within fifteen (15) feet of any side or rear lot line. Such measurement shall be made from the inside wall of the swimming pool.

(3) No apron, deck or diving board shall be placed within ten (10) feet of any side or rear lot line.

(4) No pump, filter or other accessory shall be constructed or installed within seven (7) feet of any side or rear lot lines without a Special Permit from the Board of Managers.

(b) Enclosure of pools. Any swimming pool or the property upon which a swimming pool is situated shall be surrounded by a fence or wall or equivalent enclosure not less than sixty (60) inches in height above grade at the exterior of the fence, which shall be so constructed as not to be easily climbed or penetrated. Gates and/or doors to any such enclosure shall comply in all respects with County regulations pertaining to swimming pool enclosures, and shall be maintained in good condition. A dwelling house or accessory building may be used as part of such enclosure.

(c) Screening of therapeutic baths. An outdoor therapeutic bath shall be screened from neighbors by fencing, planting, or otherwise, so as to provide privacy to users thereof and not to impinge on the privacy of the neighbors.

(d) Protective cover. A therapeutic bath shall be equipped with a protective cover that shall be secured in place covering any such bath or pool and shall be locked so as to prevent access when the bath is not in use. The protective cover shall be made of any fabric, plastic, rubber, metal or net capable of covering the entire therapeutic bath or portable swimming pool surface and, when in use, be able to be firmly secured or anchored and capable of supporting a minimum of two hundred fifty (250) pounds.

(e) Lighting. Lights used to illuminate any swimming pool or therapeutic bath and/or any areas adjacent to any swimming pool or therapeutic bath shall be so arranged and shaded so as to reflect light away from neighboring property, and shall be maintained and operated in such a manner as not to be a nuisance or annoyance to any neighboring property. In no event shall any such lights be on after midnight.

(f) Equipment. Any diving board, slide or other equipment used in or around any pool shall be constructed, affixed, designed, fastened or snubbed as to minimize unnecessary noise resulting from the use or operation of such diving board, slide or other equipment (see Chapter 20).

(g) Existing pools and therapeutic baths. Any swimming pool or therapeutic bath which was lawful when constructed may be continued, provided the swimming pool or therapeutic bath is operated and maintained in accordance with all requirements of this Chapter with the exception of subsection (b) above if, in the discretion of the Village Manager, the existing pool is surrounded by natural planting which is equivalent to a fence or wall inasmuch as the natural planting in question cannot be easily climbed or penetrated.

(h) Portable swimming pools. Every portable swimming pool shall be stored in a safe place or condition when not in actual use.

(i) Runoff and drainage. Any swimming pool, portable swimming pool or outdoor therapeutic bath within the Village shall be maintained so that pool water does not collect, seep, overflow, splash or run onto or across abutting property or onto the public right-of-way. Intentional drainage of swimming pools must ensure that such drainage flows into a storm-water drain.

(9-13-93; No. 11-1-93, 11-22-93, No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(9).

Sec. 8-25. Alteration of water flow or drainage.

(a) Permit required. Any person intending to perform grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, or the installation of any downspout

or drain which, in the opinion of the Village Manager, could alter the existing or natural flow of water in such a way that it may reasonably be expected to cause such water or drainage to flow onto abutting property or onto the public right-of-way, must obtain a Building Permit therefore from the Village Manager. No permit will be issued for activity that allows water to flow onto another private property.

(b) Adverse effect. No grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, or the installation of any downspout or drain which will alter the flow of water or drainage so as to have an adverse effect on abutting or nearby properties or on the public right-of-way shall be approved by the Village Manager.

(c) Conditions. The Village Manager may issue a Building Permit for grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, which will alter the flow of water or drainage, upon such terms or conditions as the Village Manager deems necessary to avoid adverse effects upon abutting or nearby properties or onto the public right-of-way.

(9-13-93; No. 04-01-14, 04-14-14.)

Sec. 8-26. Driveways.

Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

(9-13-93; No. 11-1-93, 11-22-93; No. 04-01-14, 04-14-14.)

Sec. 8-27. Reserved.

Previous Board Book Materials

April 11, 2016 Board Meeting

CHEVY CHASE VILLAGE
ESTABLISHED 1890

March 31, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

Dear Mr. & Mrs. Maloni:

Please note that the continuance of your request for a variance to maintain the structure that was constructed in the Grafton Street front yard of your property is scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a decision for Board approval and signature by the Board secretary, following which the applicable Building Permit may be issued. No further work may be performed on the construction until all applicable permits are obtained.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
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ELISSA A. LEONARD, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

March 16, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Variance Case No. 6887-continued

Dear Mr. & Mrs. Maloni:

As you are aware, during its meeting on March 14, 2016, the Chevy Chase Village Board of Managers considered your variance request to maintain the structure installed on your property forward of the front (Grafton Street) building restriction line. The Board has continued your case, which will be rescheduled for reconsideration during the Board's April 11 regular meeting.

Your case was continued to allow you to gather additional information in support of your application and to present the assertions that were made during the hearing in a written format that can be reviewed by Village staff and Counsel in advance of the notice deadline for the next hearing. Pursuant to the Board's instruction, any additional materials you would like to enter into the record must be submitted to our office by 5:00 p.m. on Friday, March 25.

You or a representative must be present at the April 11 hearing to present your case. The meeting will begin at 7:30 p.m.

Please contact me directly at (301) 654-7300 or ccvpermitting@montgomerycountymd.gov if you have any questions.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

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MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

February 9, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Variance Case No. 6887

Dear Mr. & Mrs. Maloni:

As you are aware, during its meeting on February 8, 2016, the Chevy Chase Village Board of Managers considered your variance request to maintain the structure installed in the Grafton Street public right-of-way in front of your property. Pursuant to your request, the Board has continued consideration of your case, for consideration at the Board's March 14 regular meeting. Your case was continued to allow you to gather additional information in support of your application.

Any revised plan, along with any additional materials you would like to enter into the record, must be finalized and submitted to our office by 5:00 p.m. on February 22, which is the filing deadline for the Board's March 14 meeting agenda. You or a representative must be present at this hearing to present your case. The meeting will begin at 7:30 p.m.

Please contact me directly at (301) 654-7300 or ccvpermitting@montgomerycountymd.gov if you have any questions.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

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VILLAGE MANAGER
SHANA R. DAVIS-COOK
LEGAL COUNSEL
SUELLEN M. FERGUSON

A-6887 -continued
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
MARCH 14, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 3/10/2016

SUBJECT: HEARING OF CASE NO. A-6887- CONTINUED- VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

This case is being continued from the February 8 monthly meeting. At this time no additional materials have been provided, however the Applicants have advised staff that they will have materials for consideration at the March 14 meeting.

The resident indicated in the variance application that the structure is a "Wysteria arbor". Arbors in a front yard are limited to a length and width of three (3) feet by five (5) feet and a height not to exceed eight and one-half (8 ½) feet (3' x 5' x 8½'). The Code states that if any of these measurements is exceeded then the setback requirements for structures shall apply.

The structure as installed exceeds these limits (it measures 4.2' x 15' x 7.3') and it is therefore classified as a "structure" for the purposes of the Code, which restricts structures forward of the twenty-five (25) foot front building resection line.

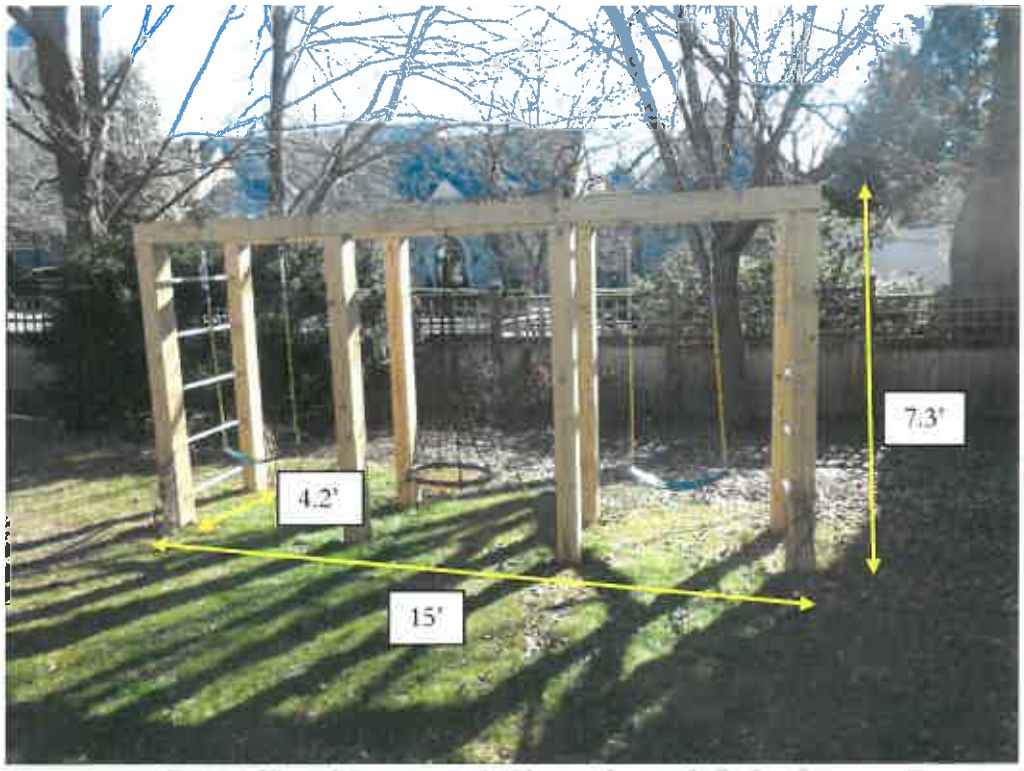


Figure 1: View of the structure, looking south towards Grafton Street.

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date there has been one letter received from the confronting neighbor on Magnolia Parkway in support of maintaining the structure and none received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

There are few precedents related to this type of structure being located forward of the front building restriction line and detached from the dwelling, whether play equipment or arbors. For structures not attached to the dwelling, there are precedents for items of safety, such as handrails and lampposts; and variances for fences and walls (either height or proximity to public sidewalks). Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to reference "permanently anchored play equipment" so that portable basketball hoops, trampolines, swings etc. would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

The Code provision establishing the allowable parameters for arbors was enacted in 2009 following a variance request regarding installation of an arbor in the front yard of 5802 Kirkside Drive.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 14th day of March, 2016 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-6887-CONTINUED
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 3rd day of March, 2016.

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

(49)

A-6887
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
FEBRUARY 8, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 2/4/2016

SUBJECT: HEARING OF CASE NO. A-6887 VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side of Chevy Chase Circle and is fronted by three streets (Chevy Chase Circle, Magnolia Parkway and Grafton Street); thus the three yards fronting these streets are considered "front" yards for the purposes of the Building Code and the applicable setbacks for front yards. The property is located in the CCV Historic District. The Applicants will need to obtain approval from the Historic Preservation Commission (HPC) for the built structure.

Per Sec. 8-16 (c) of the Village Code, a Chevy Chase Village Building Permit is required for the installation of any structure in the front yard on private property.

Structure: An assembly of materials forming a construction including, but not limited to, buildings, accessory buildings, open sheds, shelters, tennis courts, antennae, air conditioners, generators, heat pumps, swimming pools, therapeutic baths and permanently anchored play equipment, but not including walkways, patios, or driveways.

The structure was erected without the applicable Chevy Chase Village Building Permit. The location of the structure is nineteen feet, six inches (19'-6") forward of the front twenty-five (25) foot front building restriction line and thus its location constitutes a violation of the Village Code. Staff observed the structure from the Grafton Street public right-of-way and contacted the resident.

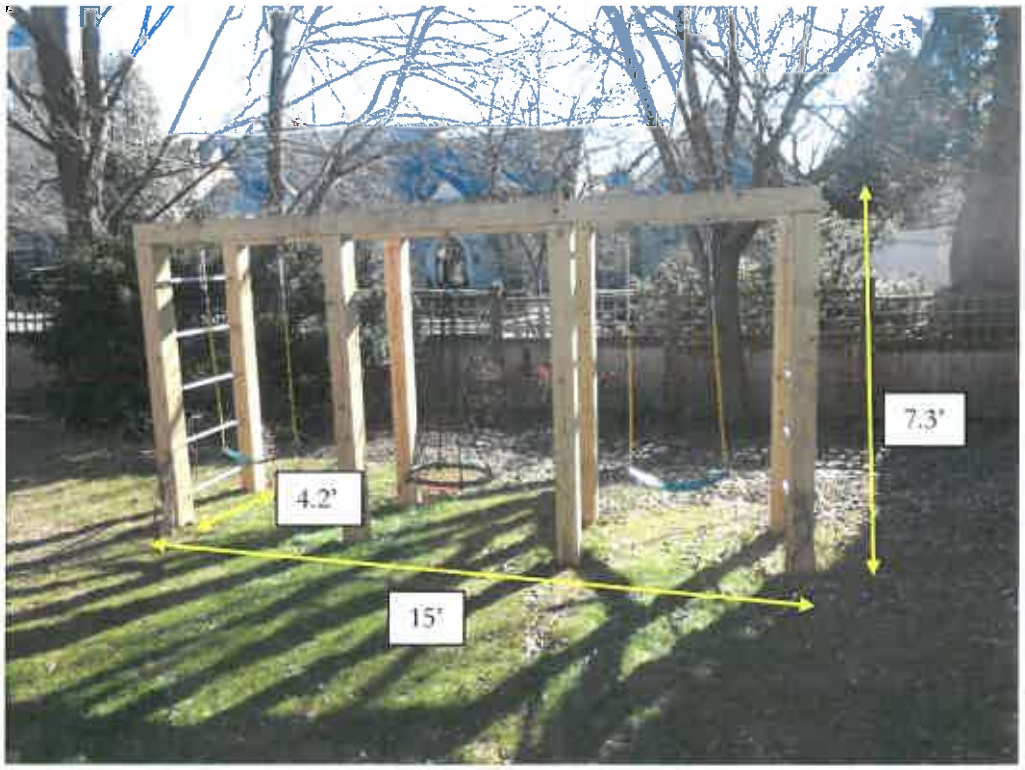


Figure 1: View of the structure, looking south towards Grafton Street.

The resident indicated in the variance application that the structure is a "Wysteria arbor". Arbors in a front yard are limited to a length and width of three (3) feet by five (5) feet and a height not to exceed eight and one-half (8 ½) feet (3' x 5' x 8½'). The Code states that if any of these measurements is exceeded then the setback requirements for structures shall apply.

The structure as installed exceeds these limits (it measures 4.2' x 15' x 7.3') and it is therefore classified as a "structure" for the purposes of the Code, which restricts structures forward of the twenty-five (25) foot front building resection line..

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date there has been one letter received from the confronting neighbor on Magnolia Parkway in support of maintaining the structure and none received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

The Code provision establishing the allowable parameters for arbors was enacted in 2009.

There are few precedents related to this type of structure being located forward of the front building restriction line and detached from the dwelling, whether play equipment or arbors. Other cases exist for stoops, steps and porticos attached to the main dwelling. For structures not attached to the dwelling, there are precedents for items of safety, such as handrails and lampposts; and variances for fences and walls. Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to reference "permanently anchored play equipment" so that portable basketball hoops, trampolines, swings etc. would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 8th day of February, 2016 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-6887
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 29th day of January, 2016.

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

Initial Application Form

April 11, 2016 Board Meeting

Chevy Chase Village

Building Permit Application

Permit No: 6887

Property Address:
5 Chevy Chase Circle

Resident Name:

Daytime telephone: 3019513375 Cell phone: 3014049790

After-hours telephone: "

E-mail: heidi.maloni@va.gov

Project Description: wisteria arbor with three hanging swing

☐ Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. (*required*):

Information for Primary Contact for Project (if different from property owner):

Name: Heidi MAloni

Work telephone: 301 404-9790 After-hours telephone: cell

Cell phone: "

E-mail: heidi.maloni@va.gov

Will the residence be occupied during the construction project? ☒ Yes ☐ No

If no, provide contact information for the party responsible for the construction site (if different from above):

Name:

Address:

Work telephone: After-hours telephone:

Cell phone:

E-mail:

Parking Compliance:

Is adequate on-site parking available for the construction crews? ☒ Yes ☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons? ☐ Yes ☒ No

Building Permit Filing Requirements:

Application will not be reviewed until the application is complete

- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☐ This application form, signed by resident.
- ☐ Boundary Survey
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: Heidi Malloni **Date:** 01-08-16

To be completed by Village staff:

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: GB

Date application filed with Village: 1/11/16 Date permit issued: _____ Expiration date: _____

(12)

For Use By Village Manager	Application approved with the following conditions:

For Use By Village Manager	Application denied for the following reasons:
DENIED JAN 26 2016 Chevy Chase Village Manager	Denied for the built structure is located within the front yard setback for the Grafton St. frontage

Filing Fees (due when application submitted)	**Checks Payable to:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
Permit Application Fee: $ 30.00 (see Permit Fee Worksheet) ☐ $50.00 (if construction is in the Public Right-of-way)	
Tree Preservation Plan Fee: ☐ $250.00 ☑ Not required for this project.	
TOTAL Fees: $ 30.00 Check # 4095	Date: 1/11/16 Staff Signature:

Damage Deposit/Performance Bond (due when permit is issued)	**Checks Payable to:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

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:	5 Chevy Chase Circle
Describe the Proposed Project:	Wisteria Arbor
Applicant Name(s) (List all property owners):	Heidi and William Maloni
Daytime telephone:	301 951 3375 Cell: 301 404 9790
E-mail:	heidi.maloni@va.gov
Address (if different from property address):	
For Village staff use: Date this form received:	1/11/16 Variance No: A-6881

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: Heidi Maloni Date: 01-08-2016

Applicant's Signature: W R Maloni Date: 1-11-16

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:

Property has an odd shape. Three of four sides are designated "front yard" by a 107 year old Covenant requiring any structure be placed 25' from front yard. Current wisteria arbor is 18' from fence line. #5 Cul de Circle is unusual compared to other Village homes. On said property there is no logical space to place the structure as the only non-street facing space has a pool and/or even trees. The current arbor offers a pleasing landscape and contributes to green space and oxygen consumption.

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):

The 1909 covenant represents an unusual condition for this residence in comparison to other residences and thereby is unjust. A hardship is recognized as this covenant limits property use for landscape design and utilization. The wisteria arbor mimics a similar arbor in the village

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*:

The wisteria arbor sits 18' from fence line - assuming this is the property line. The arbor is intended to beautify the property adding live plants to environment

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

Variance Filing Fee	**Checks Payable To:** Chevy Chase Village, 5906 Connecticut Ave., Chevy Chase, MD 20815
Per Village Code Sec. 6-2(a)(24): ☒ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. ☐ Other: $_____ check # 4095 **Fee Paid:** #300.00	**Date Paid:** 1/11/16 **Staff Signature:** Ellen Sands
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** _____ **Village Manager** **Date:** _____

57

PROPOSED GARAGE INSET
LE 1"=10'

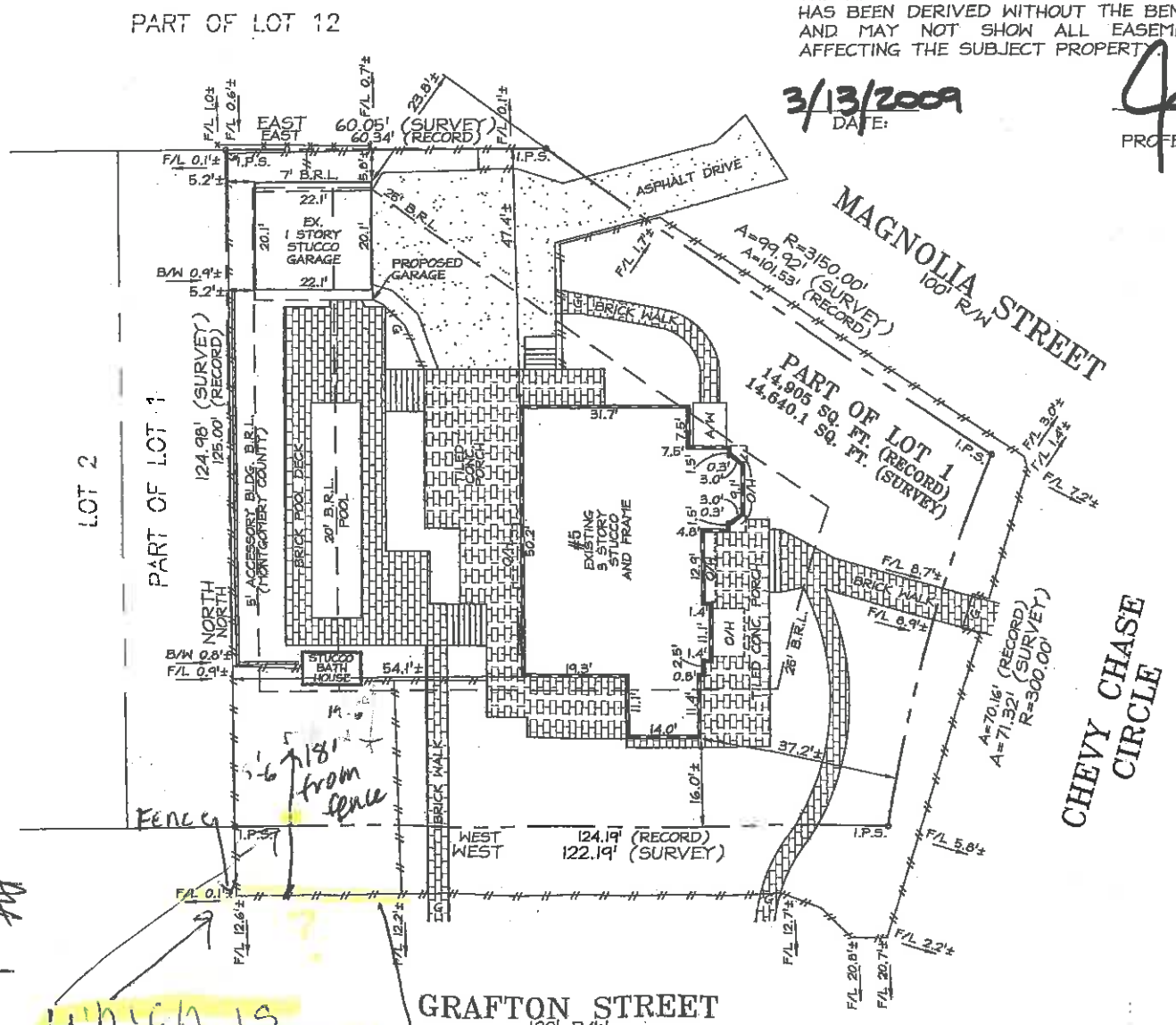
SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . IATION SHOWN HEREON H. BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,



18-0
12-6
5'-6"

BE'
M

Fence

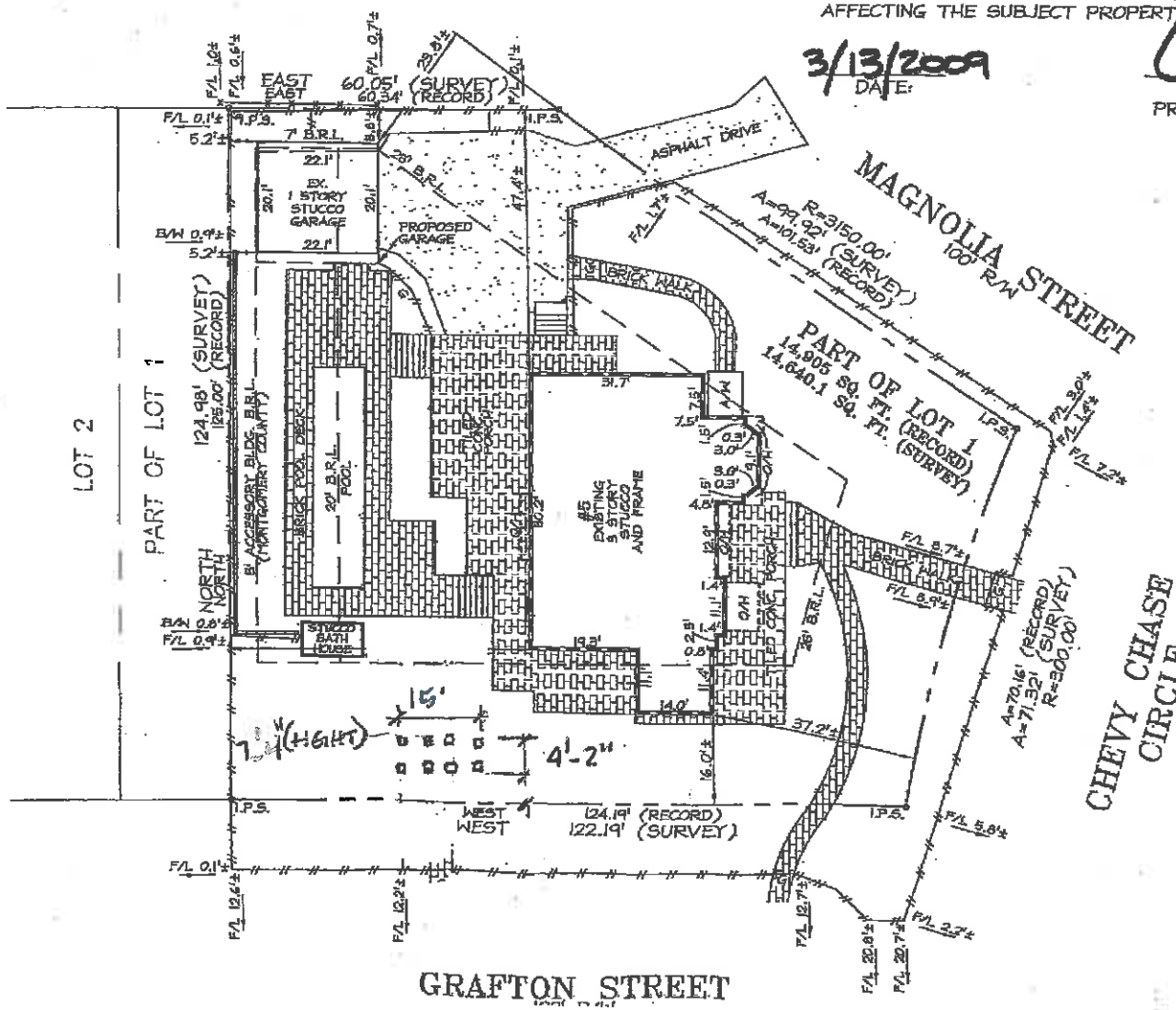
5'-6" 18' from fence

Art 1

which is property line?

If this is property line we have 25'

PROPOSED GARAGE INSET
SCALE 1"=10'



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3/13/2009
DATE:

Joseph E. Snider
JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,

BE'
M

Letters from Abutting Neighbors

Board of Managers
Chevy Chase Village

January 30, 2016

RE: 5 Chevy Chase Circle, Appeal # A-6887

Dear Board of Managers:

I am writing to you on behalf of my neighbors, Heidi and Bill Maloni.

We have no issue with the wisteria arbor and in fact, consider it a green "structure" that adds in a positive way to the neighborhood's landscape and character.

It has been in its present form since last May and from what I know, there has never been any complaints or issue with its placement.

The Maloni's lot is on the Circle and given the lot's irregular shape and the inability to really determine the front yard from the side yard, I can understand fully why the arbor was placed where it is. And only when the leaves from the surrounding shrubbery are absent, is it even visible from curbside.

Set-back restrictions are vital to prevent permanent structures from encroaching on a public space but given that we talking about a temporary structure for a beautiful wisteria, I will vote in favor of the wisteria each and every time.

Thank you for your time and consideration and serving the Village as you do.

Sincerely,

Ruth Robbins
3 Magnolia Parkway

katymeredith@verizon.net

From: "Heather Cass" <hcass@cassassoc.com>
Date: Monday, March 14, 2016 5:37 PM
To: <ccv@montgomerycountymd.gov>
Cc: <katymeredith@verizon.net>
Subject: Maloni Variance Request - Attn Ms. Ellen Sand

Dear Ellen,

Please add our names to the list of neighbors in support of the Maloni family request for a variance to keep their swing set. It is well built and attractive and — while it may be in a location that is technically the "front yard" — appears to be in an appropriate place on the lot.

Thank you for your consideration.

Best regards,

Heather Cass
Dick Cass

No virus found in this message.
Checked by AVG -
Version: 2015.0.6189 / Virus Database: 4542/11815 - Release Date: 03/14/16

Sands, Ellen

From: katymeredith@verizon.net
Sent: Monday, March 14, 2016 2:40 PM
To: CCV Permitting; burtbraverman@dwt.com; billmaloni@aol.com
Subject: Maloni variance

Chevy Chase Village Board of Managers:

We fully support Heidi and Bill Maloni in their variance request regarding the arbor/swing set in the back/side yard facing Grafton Street, and we strongly urge the BOM to grant their request for variance.

We have observed the swing set and find it to be perfectly agreeable in the setting and the surroundings. It is attractive and barely even noticeable. In fact, we had to get up close to the fence just to see it and try to understand the problem; one is not even aware of it while driving down Grafton Street.

I understand from my conversation this afternoon with Ellen Sands that there is a "covenant" that describes #5 Chevy Chase Circle as having three front lots. There is only one front of the house. There are no doors on that side of the house. They do not have a Grafton Street address; neither do they enter or exit from that "SIDE" of the house. It is, in fact, the SIDE & REAR of the house. Perhaps steps should be taken to re-write the description so as not to penalize loving grandparents who built a very nice, stable, and safe play set for their grandchildren.

Sincerely,

Burt Braverman
Kathleen Meredith
2 Magnolia Parkway
Chevy Chase, MD 20815

KATHLEEN MEREDITH
301 654 4274
202 368 7169 (mobile)
katymeredith@verizon.net

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ALL SAINTS CHURCH

THE REV. EDWARD T. KELAHER
RECTOR

March 10, 2016

Ms. Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, Maryland 20815

Re: Maloni Residence, 5 Chevy Chase Circle

Dear Ms. Sands,

I am writing with respect to the possible allowance of the arbor or play structure on the Maloni property at 5 Chevy Chase Circle. If there is someone else who should receive this letter, or to whom it might be distributed, I would ask your kind help in passing it along appropriately. Thank you if you will.

As a neighboring property to the Maloni residence, All Saints Church would be in favor of allowing the arbor/play structure to remain in its current form. It does not trouble or offend us in the least, presents no unfavorable appearance, and seems most common and reasonable for its purposes and location. As a good neighbor, we would be glad to see the Maloni family favorably considered by our Village authorities. We would be grateful for your flexibility and judicious approach in this regard.

Finally, it would please me to thank you and all other employees of our Village government for the dedication, care and professionalism you provide for all of us. You have the encouragement, support and appreciation of our parish and we stand ready to help you if ever the occasion should arise.

Sincerely,

Edward T. Kelaher, Rector

61

3 Chevy Chase Circle Chevy Chase, MD 20815 (301) 654-2488 ext. 225 edkelaher@aol.com www.allsaintschurch.net

Enforcement Correspondence

CHEVY CHASE VILLAGE
ESTABLISHED 1890

January 6, 2016

Mr. William R. Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Code Enforcement Violation—Unpermitted Play Equipment
Located Forward of the Front (Grafton Street) Building Restriction Line

Dear Mr. Maloni:

I am following up on my previous letter to you dated December 8, 2015 regarding the play equipment which was installed in the Grafton Street front yard of your property without having obtained the applicable building permits from Chevy Chase Village and Montgomery County.

As I stated in my previous letter to you (a copy of which is enclosed), a variance from the Board of Managers is required in order for you to maintain the structure. The deadline to file an application to have the case heard at the Board of Managers' January 11, 2016 regular meeting has passed and we have not received your completed application nor have we had any communication from you regarding the status of the structure.

The deadline to submit an application for a variance to be heard by the Board at its February 8 regular meeting is Tuesday, January 19. If you are not going to proceed with the variance application, the structure must be removed in order to avoid further enforcement action. Please contact me as soon as possible to discuss your intentions. If we do not receive an application for a variance or confirmation that the structure has been removed by January 19, we will proceed with enforcement action.

Thank you for your prompt attention to this matter,

Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
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VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

December 8, 2015

Mr. William R. Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

Dear Mr. Maloni:
Thank you for coming in last week to discuss the play equipment which was installed in the Grafton Street front yard of your property without the applicable Chevy Chase Village Building Permit having been obtained.

As we discussed, per Sec. 8-16 of the Village Code, no structure, including play equipment, may be installed in the front yard (defined as the area located between the front lot line and the front main building line or, in cases where no building exists, the front building restriction line) of any property:

> **Sec. 8-16. Residential building construction prohibitions.**
> (c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot...

The Code does allow applicants who have been denied a Building Permit to request a variance from the Board of Managers. Enclosed are the materials you will need to submit in order to have the case heard by the Board at its January 11, 2016 regular meeting. The submission deadline for this meeting is 5:00 p.m. on Monday, December 21, 2015.

Before you take the time to prepare the application materials, however, I wanted to bring to your attention the findings required by the Board in order to approve a variance. According to Sec. 8-9 of the Code:

> (c) Variances. To hear and decide any application for a variance from the requirements of this Chapter. Such a variance may be granted by the Board of Managers only if it finds that:
>
> (1) The proposed variance is required because special conditions exist whereby the enforcement of the requirements of this Chapter would result in unwarranted hardship and injustice to the owner.
> (2) The proposed variance would most nearly accomplish the intents and

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VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

purposes of the requirements of this Chapter; and
(3) For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property.

I have reviewed the covenants for your property, which were on file from a previous appeal related to your property. The covenants expressly state:

> "...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".

The Board historically holds a very firm stance regarding the covenants. Recently, the Board denied a variance request filed by an applicant who sought to maintain a freestanding basketball hoop which had been installed—without the applicable Building Permit—forward of the front building restriction line and within the covenant setback. In turn, the Board required that the Applicant remove the basketball hoop within a stated timeframe.

Although under the Village's Building Code you are free to proceed with the variance application, I wanted to make you aware of this recent similar case before you submitted the application and fees.

Because your property is located in the Chevy Chase Village Historic District, which is regulated by Montgomery County's Historic Preservation Commission (HPC), the installation of play equipment does require a Historic Area Work Permit (HAWP), so if you wish to maintain the equipment you could start that application process while you are applying for the Village variance.

Please contact me if you have any questions.

Sincerely,

Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village

Enclosures

Chevy Chase Village

Website Posting Notice
for Appeal, Special Permit & Variance Hearings

Case Number: A- 6887

Hearing Date: February 8, 2016

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Heidi Maloni

Address: 5 Chevy Chase Circle

Telephone: 301 404 9790

E-mail: heidi.maloni@va.gov

Applicant/Appellant Signature: Heidi Maloni

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: SB Date: 1/11/16

Covenants

April 11, 2016 Board Meeting

State of Maryland, County of Montgomery, ss:

I hereby certify that on this sixteenth day of June in the year 1909, before me the subscriber, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Wilmer G.Platt, Mayor of the Town of Takoma Park, Maryland, and did acknowledge the aforegoing deed to be the act of said Town or Takoma Park, Maryland.

In Testimony Whereof, I have hereunto set my hand and affixed my seal this 16th day of June, 1909.

H.Edson Rogers.

H.Edson Rogers
Notary Public
Montgomery
Co.Md.

206 — 246

At the request of Charles D.Cugle and Jessie Owen Cugle the following Deed was recorded May 7th A.D.1909 at 1.30 o'clock P.M., to wit.

THIS DEED, Made this 29th day of April in the year one thousand nine hundred and nine 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 Charles D.Cugle and Jessie Owen Cugle, his wife, of the City of Baltimore, State of Maryland, parties of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of fifty three hundred and sixty-five and 44/100 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:

All of Lot numbered one (1), except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two, of the Subdivision made by The Chevy Chase Land Company, of Montgomery County, Maryland, as per plat of said subdivision recorded in Liber J.A. No.36, folio 61, of the Land Records of said Montgomery County, Maryland.

To Have and To Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part, as tenants by the entirety, the survivor of them, their heirs and assigns, and the heirs and assigns of the survivor, in fee simple.

In Consideration of the execution of this Deed, the said parties of the second part for themselves and for each of them, for their and for each of 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 five thousand (5,000) dollars.

4. That any house erected on said premises shall be designed 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) ted 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 J.Stallwagen, its Vice President, attested by Herbert Claude its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Harold E.Doyle, its true and lawful attoryen 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.

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

THE CHEVY CHASE LAND COMPANY, OF MONTGOMERY COUNTY, MARYLAND,

By:- Edward J.Stallwagen,

Vice President.

Attest.

Herbert Claude

Secretary.

District of Columbia, to wit:-

I, Albert W.Siouese, a Notary Public in and for the said District of Columbia, do hereby certify that Harold E.Doyle, who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed deed, dated the 29th day of April 1909, to acknowledge the same, personally appeared before me in the said District of Columbia, and as Attorney in fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

Given under my hand and seal this 29th day of April A.D.1909.

A-6889-modification
Special Permit Request

Modify a previously approved Special Permit request to expand an existing gravel driveway from a maximum width of sixteen (16) feet to a maximum width of twenty-one feet, eleven inches (21'-11") on private property. The Village Board previously approved a Special Permit allowing the driveway to be expanded to a maximum of nineteen feet, eleven inches (19'-11") which was not installed.

Mr. John J. Campanella and
Ms. Kathleen M. Campanella
5910 Cedar Parkway

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6889- MODIFICATION (SPECIAL PERMIT REQUEST)
MS. KATHLEEN M. CAMPANELLA & MR. JOHN J. CAMPANELLA; 5910 CEDAR PARKWAY
MODIFY A PREVIOUSLY APPROVED SPECIAL PERMIT REQUEST TO EXPAND AN EXISTING GRAVEL DRIVEWAY FROM A MAXIMUM WIDTH OF SIXTEEN (16) FEET TO A MAXIMUM WIDTH OF TWENTY-ONE FEET, ELEVEN INCHES (21'-11") ON PRIVATE PROPERTY. THE VILLAGE BOARD PREVIOUSLY APPROVED A SPECIAL PERMIT ALLOWING THE DRIVEWAY TO BE EXPANDED TO A MAXIMUM OF NINETEEN FEET, ELEVEN INCHES (19'-11") WHICH WAS NOT INSTALLED.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-26 states:
Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for Special Permit requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side Cedar Parkway and is located in the CCV Historic District. The Applicants have not yet obtained approval from the Historic Preservation Commission (HPC) for the expanded driveway (they are on the April 13 HPC agenda).

An administrative Special Permit was issued allowing the Applicants to replace an asphalt driveway with a gravel driveway in the same location, with a maximum width of sixteen feet, which exceeds the allowable width for a driveway on private property. Having obtained that approval and done the work, the Applicants determined that they would like to widen the driveway further, and they applied for a Special Permit to expand the driveway width. That request was for a maximum width of nineteen feet, eleven inches (19'-11") was granted but has not been installed. The Applicants state that the driveway would still not be wide enough to park two cars side by side and step out of the vehicle onto gravel. They are now requesting an additional two feet of width, for a proposed maximum width of twenty-one feet, eleven inches (21'-11").

**Figure 1: View of the driveway looking west. The green is the existing width (16');
yellow indicates the previously approved but not yet installed width (19'-11"); red is the proposed width (21'-11").**

The Property has undergone a recent renovation and addition, including the removal of a parking area in the rear yard of the property.

To date no letters have been received either in support of or opposition to the request.

The Village arborist has assessed the property. Construction of the expanded driveway requires implementation of a Tree Protection Plan prepared by the Village consulting arborist. No trees are proposed for removal due to the construction.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

On July 8, 1996 Mr. Jeff Foster and Ms. Candice Will of 4109 Oliver Street were **granted** a Special Permit to relocate a triangular portion of their parking pad so as to create a rectangular parking pad of approximately 25' x 20'. On November 9, 1999, Ms. Susan Gallagher and Mr. Michael Williams were **granted** permission to expand an existing driveway an additional fifteen (15) feet, increasing the total width of the driveway to forty-five (45) feet at the property line (this abuts Brookville Road and the area effectively acts as a parking pad). On July 20, 2006 Mr. and Mrs. Z.G Diznab of 142 Hesketh Street were **granted** a Special Permit to replace and widen an existing concrete driveway which would have a total maximum width of 25' at the entrance to a three-car garage. On April 19, 2007 Mr. Dane Butswinkas and Ms. Megan

Rupp of 3 Newlands Street were **granted** a Special Permit to construct a garage apron, a portion of which would measure a maximum of 30'-9" in front of an existing two-car garage. In December 2007 and September 2010, Mr. & Mrs. Stephen C. Conley of 9 West Lenox Street were **granted** a Special Permit to replace and expand an existing gravel driveway with a paver driveway. The proposed apron and turnaround area would be located on private property and would have a maximum width of fifty-four (54) feet. In June of 2012, Mr. and Mrs. Tony Schall of 103 Grafton Street were **granted** permission to expand an existing asphalt and concrete driveway with a wider cobblestone driveway that would measure a maximum of sixteen (16) feet in width in the front (south) yard of the property. In July 2012, Mr. and Mrs. Thomas Conaghan of 5628 Western Avenue were **granted** a Special Permit to widen an existing concrete driveway that would measure a maximum of forty (40) feet in width in the rear (north) yard of the property. A portion of the existing driveway would be removed. (The property abuts Western Avenue, which has parking restrictions, hence the Applicants requested additional parking in the rear yard, accessed by the private alley.) In June of 2013 Mr. and Mrs. Peter Wellington of 18 West Lenox Street were **granted** permission to replace and widen an existing asphalt driveway, a portion of which would measure a maximum of twenty feet, three and one-half inches (20'-3 ½") in width on private property. (The Applicants requested the additional width in order to navigate the driveway to the detached garage at the rear of the property.) In May 2013 Mr. & Mrs. Jerry Pritchett of 5607 Park Street were **granted** a Special Permit to replace and widen a concrete driveway, including a new paver border, which would measure a maximum of thirteen feet, nine inches (13'-9") in width in the Park Street public right-of-way. In November 2013 Ms. Ann Pelham Cullen and Mr. Robert Cullen, 117 East Melrose Street were **granted** a Special Permit to construct a driveway on private property that would measure a maximum of twenty-seven feet, nine and one-half inches (27'-9 ½") in width (the Applicants have a shared driveway with an abutting neighbor and contended that they needed the additional width on their property to be able to park without blocking the neighbor in). In November 2014 Mr. & Mrs. Benjamin Rippeon of 6134 Nevada Avenue were **granted** a Special Permit to widen the driveway at their property and in the public right-of-way abutting it.

FINDINGS REQUIRED:

1. The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;
2. The proposed Special Permit can be granted without substantial impairment of the intent and purpose of this chapter; and
3. For all Special Permits, except for Special Permits authorized by Sections 8-21, 8-26 or Chapter 25 of the Village Code, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property [not applicable in this case].

Draft Motion

I move to APPROVE/DENY the Special Permit request in Case A-6689-modification on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Special Permit 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 Special Permit request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6889-MODIFICATION
MR. JOHN J. CAMPANELLA & MS. KATHLEEN M. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MARYLAND 20815

The applicants seek a Special Permit from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to modify a previously approved Special Permit request to expand an existing gravel driveway from a maximum width of sixteen (16) feet to a maximum width of twenty-one feet, eleven inches (21'-11") on private property. The Village Board previously approved a Special Permit allowing the driveway to be expanded to a maximum of nineteen feet, eleven inches (19'-11") which was not installed.

The Chevy Chase Village Code Sec. 8-26 states:

> Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

Additional information regarding this appeal 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 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 31st day of March, 2016.

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

MAILING LIST FOR APPEALS A- 6888 & A-6889-MODIFICATION

MS. KATHLEEN M. CAMPANELLA &
MR. JOHN J. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Mr. William (Jay) West Or Current Resident 5912 Cedar Parkway Chevy Chase, MD 20815	Mr. & Mrs. Charles Hobbs Or Current Resident 33 West Kirke Street Chevy Chase, MD 20815
Ms. Clare M. Gilliam Or Current Resident 5908 Cedar Parkway Chevy Chase, MD 20815	Dr. & Mrs. Mark Eig Or Current Resident 34 West Kirke Street Chevy Chase, MD 20815
The Chevy Chase Club Or Current Occupant 6100 Connecticut Avenue Chevy Chase, MD 20815	

I hereby certify that a public notice was emailed (where possible) and mailed to the aforementioned property owners on the 31st day of March, 2016.

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
ESTABLISHED 1890

April 1, 2016

Mr. & Mrs. John Campanella
5910 Cedar Parkway
Chevy Chase, MD 20815

Dear Mr. & Mrs. Campanella:

Please note that your requests for two Special Permits (to widen the driveway and to maintain the wall that was constructed in the Cedar Parkway public right-of-way abutting your property) are scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a written decision pursuant to the Board's direction. No further work on the wall and no work on the driveway may take place until all applicable permits are issued.

For your convenience, enclosed please find copies of the Public Hearing Notices and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

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MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

Chevy Chase Village

Application for a Special Permit

Chevy Chase Village Code Section 8-1 defines a Special Permit as permission granted by the Board of Managers in accordance with Article II Division B of this Chapter [8], to construct, install, remove or alter a structure or planting , or take other action where such permission is required by this Chapter.

Subject Property: 5910 Cedar Parkway
Describe the Proposed Project: Widen driveway to 21'11" at rear parking area.
Applicant Name(s) (List all property owners): John and Kathy Campanella
Daytime telephone: 2023205008 Cell:
E-mail: kcampanella@verizon.net
Address (if different from property address):
For Village staff use: Date this form received: 3/14/16 Special Permit No: A-6909

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 Special Permit* (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, except for Special Permits authorized by Sections 8-21 and 8-26 of Chapter 8, or Section 25-5 and 25-6 of Chapter 25 of the Chevy Chase Village Code.
- ☐ Applicable Special Permit fee 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 special permit 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: _____ Date: 3/14/16

Applicant's Signature: _____ Date: 3/14/16

(6)

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

Describe the reasons why approval of the Special Permit would not adversely affect the public health, safety or welfare or the reasonable use of adjoining properties:

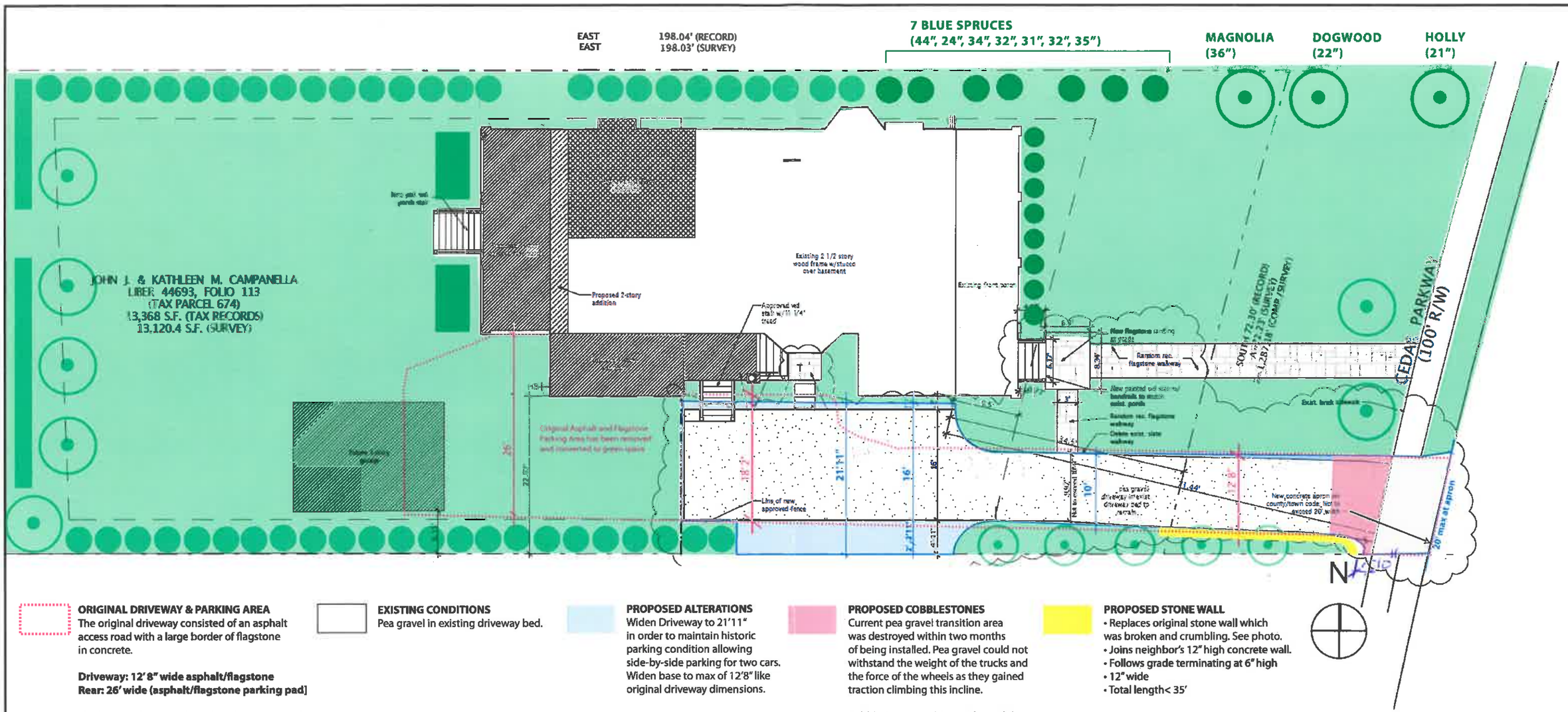
Owners of this residence have historically parked two cars side by side in this driveway on a daily basis for many years. The new proposal maintains this condition. (Please note that the original driveway size was reduced by more than 30% with impervious area converted to green space.)

Describe the reasons why the Special Permit can be granted without substantial impairment of the intent and purpose of Chapter 8, entitled *Buildings and Building Regulations*, or Chapter 25, entitled *Public Rights-of-Way* of the Chevy Chase Village Code

The original driveway asphalt and flagstone driveway was 12'8" wide at the entrance and 26' wide at the rear parking pad. Historically, the full width of the driveway was used consistently to park two cars side-by-side. It is important to maintain the side-by-side parking condition becuase there is very limited adjacent legal street parking for this address due to its location at a three way intersection.

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

Special Permit Filing Fees	**Checks Payable To:** **Chevy Chase Village** **5906 Connecticut Ave.** Chevy Chase, MD 20815
Per Village Code Sec. 6-2(a)(24): ☑ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $2,250.00 for demolition of main building. ☐ $300.00 for demolition of accessory building or structure. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. **Fee Paid:**	**Date Paid:** **Staff Signature:**
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** **Village Manager** **Date:**



ORIGINAL DRIVEWAY & PARKING AREA
The original driveway consisted of an asphalt access road with a large border of flagstone in concrete.

Driveway: 12' 8" wide asphalt/flagstone
Rear: 26' wide (asphalt/flagstone parking pad)

The large parking area (see above) was removed and converted to greenspace, reducing the overall impervious driveway surface by more than 30%.

Historically, the full width of the combination asphalt/flagstone driveway was consistently used to park two cars side by side.

EXISTING CONDITIONS
Pea gravel in existing driveway bed.

PROPOSED ALTERATIONS
Widen Driveway to 21'11" in order to maintain historic parking condition allowing side-by-side parking for two cars. Widen base to max of 12'8" like original driveway dimensions.

PROPOSED COBBLESTONES
Current pea gravel transition area was destroyed within two months of being installed. Pea gravel could not withstand the weight of the trucks and the force of the wheels as they gained traction climbing this incline.

Cobblestones would provide a solid foundation that would not sink from pressure of truck wheels.

PROPOSED STONE WALL
- Replaces original stone wall which was broken and crumbling. See photo.
- Joins neighbor's 12" high concrete wall.
- Follows grade terminating at 6" high
- 12" wide
- Total length< 35'

PROPOSED CONCRETE APRON
Concrete apron would continue over sidewalk area to provide a solid foundation for truck wheels.

Chevy Chase Village

Building Permit Application for Driveways and Other Features at Grade

Permit No:

Property Address: 5910 Cedar Parkway

Resident Name: John & Kathy Campanella

Daytime telephone: 202-320-5008 Cell phone:

After-hours telephone:

E-mail:

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. (*required*):

Primary Contact Information:

Name: Kathy Campanella

Daytime telephone: 202 320 5008 After-hours telephone:

E-mail: Kcampanella@verizon.net

Check all that apply:

☑ Driveway (If a new curb cut is required, note additional fee.)

☑ Walkway (Sidewalk)

☐ Patio, terrace, or deck at grade

Check all appropriate boxes:

Feature is: ☐ new;

☑ an enlargement of an existing feature; and/or

☐ being relocated.

☐ Feature is a replacement in-kind and in the same location.

Description of project: Widen previously approved driveway an additional two feet at rear parking area

To be completed by Village staff

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: ZS

Date application filed with Village: 3/4/16 Date permit issued: _____ Expiration date: _____

Guidelines for Building, Replacing and Maintaining Driveways

Village Code states that any person intending to install, replace or alter a driveway, or any material part thereof, must first obtain a Building Permit from the Village office. (Residents within the Historic District must also obtain a Historic Area Work Permit; please contact the Historic Preservation Commission directly.)

Driveways are regulated in three areas: (1) the portion of the driveway located on private property, (2) the portion of the driveway that crosses the public right-of-way, and (3) the driveway apron, which is the portion of the driveway that meets the public street. Please refer to the illustration below for an example of these components.

(1) Driveways on Private Property

Driveways on private property may be installed using any material the resident chooses (although residents within the Historic District must consult with HPC), provided that the driveway does not exceed fifteen feet (15') in width. Village Code allows residents to install a wider garage apron—the section of a driveway just forward of a garage—for two-car garages. The apron in front of a two-car garage may extend the full width of the two-car garage for a distance up to twenty feet (20') from the face of the garage. The Code applies this accommodation only for two-car garages.

(2) Driveways on the Public Right-of-Way

All driveways must cross the public right-of-way to access the street, but where private property ends and the public right-of-way begins ends is not always consistent from street to street, and may even vary from block to block (as discussed above). The first step is to determine where the right-of-way begins in front of your property. Your proposed driveway cannot exceed ten feet (10') in width where the driveway crosses the right-of-way. Also, if your driveway (whether new or replacement) crosses or intersects with a public sidewalk, the sidewalk material must be restored/maintained across the driveway so as to create a continuous public sidewalk of consistent material type.

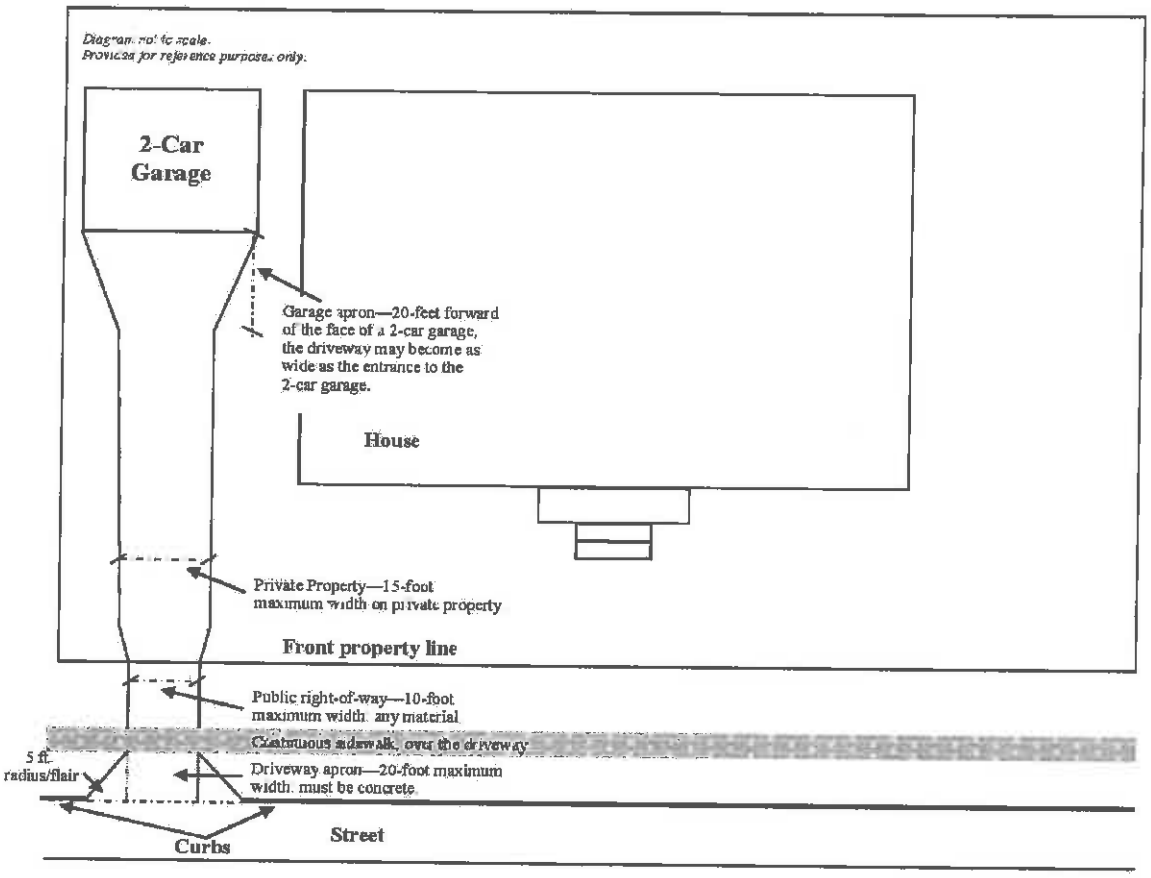
(3) Driveway Aprons

The driveway apron is the portion of the driveway that meets the public street. In addition to the ten foot (10') maximum width of the driveway where the driveway crosses the public right-of-way, the Village Code allows a five foot (5') radius on either side to establish the driveway apron, thereby allowing a maximum width at the curb of twenty feet (20'). While driveways on private property may be installed in any material or color that residents choose, the Village Code specifies that the driveway apron must be installed in accordance with current Montgomery County standards.

Village Code limits the number of curb cuts permitted per property to one. Accordingly, residents who wish to install a circular driveway will need to request a variance from the Board of Managers.

Unlike other improvements in the public right-of-way, a **License to Use the Public Right-of-Way** is not required to install or replace driveways or driveway aprons. Replacement of a driveway apron is the sole responsibility of the adjoining property owner, not the Village.

Example:



Building Permit Application Filing Requirements

Application will not be reviewed until the application is complete

- ❒ Copy of stamped approved plans from Montgomery County or Historic Preservation Commission (HPC).
- ❒ This application form, signed by resident.
- ❒ Boundary Survey
- ❒ Site Plan (see: Village Site Plan Checklist to ensure completeness) showing exact location of existing and proposed features.
- ❒ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ❒ Filing Fee (due at time of application). Fee schedule is listed in Chapter 6 of the Village Code.
- ❒ Damage deposit or performance bond (due when permit is issued). Amount will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days. If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed. No signs advertising any service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: _____ **Date:** 3-29-16

For Use By Village Manager	Application approved with the following conditions:

For Use By Village Manager	Application denied for the following reasons:
DENIED MAR 23 2016 Chevy Chase Village Manager	The driveway exceeds the maximum allowed width on private property.

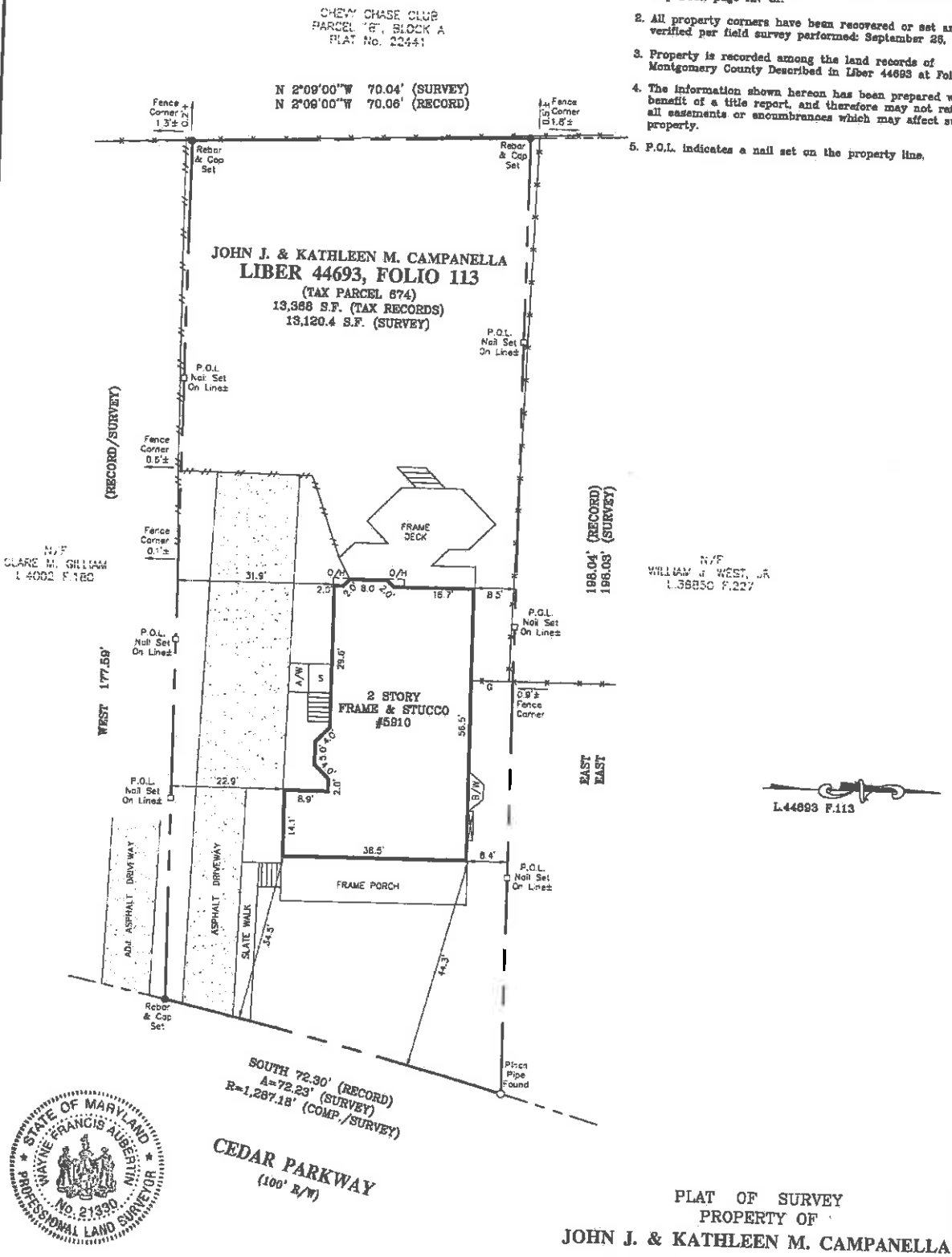
Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Filing Fee: ☒ $30.00 (if new, enlarged or relocated) ☐ $15.00 (if a replacement in-kind and in the same location) ☐ $50.00 for new curb cut. ☐ $50.00 for construction in the Public Right-of-Way.	
Tree Preservation Plan Fee: ☐ $250.00 previously waived ☐ Not required for this project	
TOTAL Fees: $300	Date: 3/21/16 Staff Signature:
Damage Deposit/Performance Bond ☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:

For Village Staff use:

Field file for inspections by Code Enforcement Officer has been created: ☐Yes (Date:_____)

GENERAL NOTES:

1. Property shown in Montgomery County Tax Assessment Map Book page HN-31.
2. All property corners have been recovered or set and verified per field survey performed: September 26, 2012.
3. Property is recorded among the land records of Montgomery County Described in Liber 44693 at Folio 113.
4. The information shown hereon has been prepared without benefit of a title report, and therefore may not reflect all easements or encumbrances which may affect subject property.
5. P.O.L. indicates a nail set on the property line.



STATE OF MARYLAND
WAYNE FRANCIS AUBERTIN
No. 21330
PROFESSIONAL LAND SURVEYOR

SURVEYOR'S CERTIFICATE

"I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN. THIS PLAT AND THE FIELD SURVEY UPON WHICH IT IS BASED WAS PREPARED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE REGULATIONS GOVERNING LAND SURVEYING IN THE STATE OF MARYLAND."

10/1/12

MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 21330
EXPIRES: 01-07-2013

PLAT OF SURVEY
PROPERTY OF
JOHN J. & KATHLEEN M. CAMPANELLA
LIBER 44693, FOLIO 113
(TAX PARCEL 674)
MONTGOMERY COUNTY, MARYLAND

REFERENCES	
PLAT BK.	
PLAT NO.	
LIBER	44693
FOLIO	113

SNIDER & ASSOCIATES
LAND SURVEYORS
20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS		SCALE:	1" = 20'
WALL CHECK:		DRAWN BY:	J.M.
HSE. LOC.:			
PROP. CORS.:	09-26-12	JOB NO.:	12-03669B

Chevy Chase Village

Website Posting Notice for Appeal, Special Permit & Variance Hearings

Case Number: ~~A-6900~~ 6889 - modification

Hearing Date: 4/11/16

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Kathy Campanella

Address: 5910 Cedar Parkway

Telephone: 301.215.4151

E-mail: KCampanella@verizon.net

Applicant/Appellant Signature:

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: CS Date: 3/21/16

A-6888
Special Permit Request

Maintain a wall which was constructed in the Cedar Parkway public right-of-way and which is located ten (10) inches from the public sidewalk.

Mr. John J. Campanella and
Ms. Kathleen M. Campanella
5910 Cedar Parkway

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6888 (SPECIAL PERMIT REQUEST)
MS. KATHLEEN M. CAMPANELLA & MR. JOHN J. CAMPANELLA; 5910 CEDAR PARKWAY
MAINTAIN A WALL WHICH WAS CONSTRUCTED IN THE CEDAR PARKWAY PUBLIC RIGHT-OF-WAY AND WHICH IS LOCATED TEN (10) INCHES FROM THE PUBLIC SIDEWALK.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

Sec. 25-6 (a) states:
No structures, fence, wall, lamp post, hand rails, tree, hedge or shrubbery or any other growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use without the property owner first having obtained a license and having signed a right-of-way license agreement, in addition to any required building or Special Permit. Such agreement may be recorded in the county land records at the abutting property owner's expense. For the purposes of this Section, masonry piers and pillars shall be considered to be walls.

Sec. 25-6 (2) states:
All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

Sec. 25-6 (c) states:
Except as provided in Sec. 25-6 (b), no structures, fence, wall, lamp post, hand rail, tree, hedge or shrubbery, or any other growth shall be permitted on public property devoted to private use without a Special Permit from the Board of Managers.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for Special Permit requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side Cedar Parkway and is located in the CCV Historic District. The Applicants have not yet obtained approval from the Historic Preservation Commission (HPC) for maintaining the wall (they are on the April 13 HPC agenda).

The Applicants state that they are replacing a previous wall in the same proximity to the sidewalk (see their written statement and page 9 of the Board materials).

Figure 1: View of the wall looking west. The driveway and apron have not been completed, however once they are the distance from the wall to the public sidewalk (indicated by the yellow dashed line) would be ten (10) inches if the request to maintain the wall is granted.

To date no letters have been received either in support of or opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES:

Note: Prior to 1999, installation of any structure in the public right-of-way required approval from the Board of Managers. Since 1999, exceptions have been made for some structures (fences, walls, lamp posts etc.) with regulations regarding height and location. The most comparable cases are:

In 2004 Mr. & Mrs. Clarke Camper of 6 Primrose Street were granted a Special Permit to extend a retaining wall alongside the public sidewalk in front of their property. In June 2012 Mr. & Mrs. Jeffrey Shuren of 108 Hesketh Street were granted a Special Permit to construct a new pair of cheekwalls alongside reconstructed steps in the Hesketh Street public right-of-way. The walls terminate twelve (12) inches from the public sidewalk. In February 2013 Mr. and Mrs. Alex Sternhell of 27 Primrose Street were granted a

Special Permit to construct a new pair of cheekwalls alongside new steps in the Primrose Street public right-of-way which terminate twelve (12) inches from the public sidewalk.

FINDINGS REQUIRED:

1. The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;
2. The proposed Special Permit can be granted without substantial impairment of the intent and purpose of this chapter; and
3. For all Special Permits, except for Special Permits authorized by Sections 8-21, 8-26 or Chapter 25 of the Village Code, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property [not applicable in this case].

Draft Motion

I move to APPROVE/DENY the Special Permit request in Case A-6888 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Special Permit 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 Special Permit request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6888
MR. JOHN J. CAMPANELLA &
MS. KATHLEEN M. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MARYLAND 20815

The applicants seek a Special Permit from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a wall which was constructed in the Cedar Parkway public right-of-way and which is located ten (10) inches from the public sidewalk.

Sec. 25-6 (a) states:
No structures, fence, wall, lamp post, hand rails, tree, hedge or shrubbery or any other growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use without the property owner first having obtained a license and having signed a right-of-way license agreement, in addition to any required building or Special Permit. Such agreement may be recorded in the county land records at the abutting property owner's expense. For the purposes of this Section, masonry piers and pillars shall be considered to be walls.

Sec. 25-6 (2) states:
All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

Sec. 25-6 (c) states:
Except as provided in Sec. 25-6 (b), no structures, fence, wall, lamp post, hand rail, tree, hedge or shrubbery, or any other growth shall be permitted on public property devoted to private use without a Special Permit from the Board of Managers.

Should the request be approved, before any Special Permit will be issued the Applicants must enter into a right-of-way license agreement in a form acceptable to the Village.

Additional information regarding this appeal 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 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 31st day of March, 2016.

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

4

MAILING LIST FOR APPEALS A- 6888 & A-6889-MODIFICATION

MS. KATHLEEN M. CAMPANELLA &
MR. JOHN J. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Mr. William (Jay) West Or Current Resident 5912 Cedar Parkway Chevy Chase, MD 20815	Mr. & Mrs. Charles Hobbs Or Current Resident 33 West Kirke Street Chevy Chase, MD 20815
Ms. Clare M. Gilliam Or Current Resident 5908 Cedar Parkway Chevy Chase, MD 20815	Dr. & Mrs. Mark Eig Or Current Resident 34 West Kirke Street Chevy Chase, MD 20815
The Chevy Chase Club Or Current Occupant 6100 Connecticut Avenue Chevy Chase, MD 20815	

I hereby certify that a public notice was emailed (where possible) and mailed to the aforementioned property owners on the 31st day of March, 2016.

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
ESTABLISHED 1890

April 1, 2016

Mr. & Mrs. John Campanella
5910 Cedar Parkway
Chevy Chase, MD 20815

Dear Mr. & Mrs. Campanella:

Please note that your requests for two Special Permits (to widen the driveway and to maintain the wall that was constructed in the Cedar Parkway public right-of-way abutting your property) are scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a written decision pursuant to the Board's direction. No further work on the wall and no work on the driveway may take place until all applicable permits are issued.

For your convenience, enclosed please find copies of the Public Hearing Notices and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
MICHAEL L. DENGER, *Chair*
ELISSA A. LEONARD, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

Chevy Chase Village

Application for a Special Permit

Chevy Chase Village Code Section 8-1 defines a Special Permit as permission granted by the Board of Managers in accordance with Article II Division B of this Chapter [8], to construct, install, remove or alter a structure or planting , or take other action where such permission is required by this Chapter.

Subject Property: 5910 Cedar Parkway
Describe the Proposed Project: Maintain a stone wall in the right-of-way
Applicant Name(s) (List all property owners): John & Kathy Campanella
Daytime telephone: 202-332-5008 Cell:
E-mail: kcampanella@verizon.net
Address (if different from property address):
For Village staff use: Date this form received: 1/19/16 Special Permit No: A-6888

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 Special Permit* (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, except for Special Permits authorized by Sections 8-21 and 8-26 of Chapter 8, or Section 25-5 and 25-6 of Chapter 25 of the Chevy Chase Village Code.
- ☐ Applicable Special Permit fee 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: _____ **Date:** 1/15/16

Applicant's Signature: _____ **Date:** 1/15/16

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

Describe the reasons why approval of the Special Permit would not adversely affect the public health, safety or welfare or the reasonable use of adjoining properties:

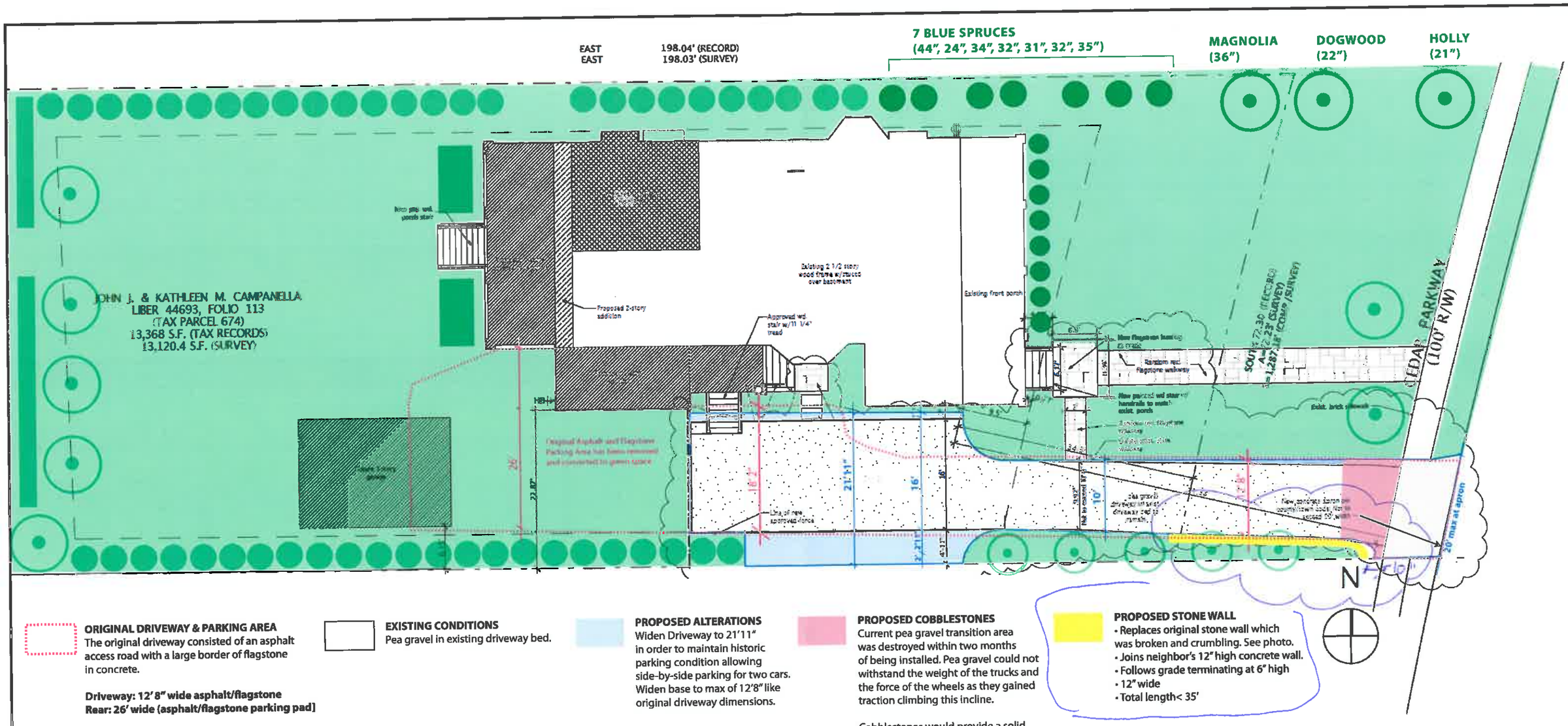
We are replacing a pre-existing non-conforming stone wall and extending it further along the driveway to make it more functional. Because of the grade, we need to retain earth to keep mud from the driveway and are aligning with the neighbor's wall to complete the enclosure.

Describe the reasons why the Special Permit can be granted without substantial impairment of the intent and purpose of Chapter 8, entitled *Buildings and Building Regulations,* or Chapter 25, entitled *Public Rights-of-Way* of the Chevy Chase Village Code:

While it is certainly clear that many other people on the block have similar encroachments not related to grade, at our particular address we need the wall to prevent mud from running onto the driveway. By aligning with the neighbor's wall we can complete the enclosure of the hill to achieve that. We are replacing a previous similar wall.

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

Special Permit Filing Fees	**Checks Payable To:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
Per Village Code Sec. 6-2(a)(24): ☑ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $2,250.00 for demolition of main building. ☐ $300.00 for demolition of accessory building or structure. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. **Fee Paid:** $300.00 Check #4564	**Date Paid:** 1/19/16 **Staff Signature:**
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** _____ **Village Manager** **Date:** _____



ORIGINAL DRIVEWAY & PARKING AREA
The original driveway consisted of an asphalt access road with a large border of flagstone in concrete.

Driveway: 12' 8" wide asphalt/flagstone
Rear: 26' wide (asphalt/flagstone parking pad)

The large parking area (see above) was removed and converted to greenspace, reducing the overall impervious driveway surface by more than 30%.

Historically, the full width of the combination asphalt/flagstone driveway was consistently used to park two cars side by side.

EXISTING CONDITIONS
Pea gravel in existing driveway bed.

PROPOSED ALTERATIONS
Widen Driveway to 21'11" in order to maintain historic parking condition allowing side-by-side parking for two cars. Widen base to max of 12'8" like original driveway dimensions.

PROPOSED COBBLESTONES
Current pea gravel transition area was destroyed within two months of being installed. Pea gravel could not withstand the weight of the trucks and the force of the wheels as they gained traction climbing this incline.

Cobblestones would provide a solid foundation that would not sink from pressure of truck wheels.

PROPOSED STONE WALL
- Replaces original stone wall which was broken and crumbling. See photo.
- Joins neighbor's 12" high concrete wall.
- Follows grade terminating at 6" high
- 12" wide
- Total length< 35'

PROPOSED CONCRETE APRON
Concrete apron would continue over sidewalk area to provide a solid foundation for truck wheels.

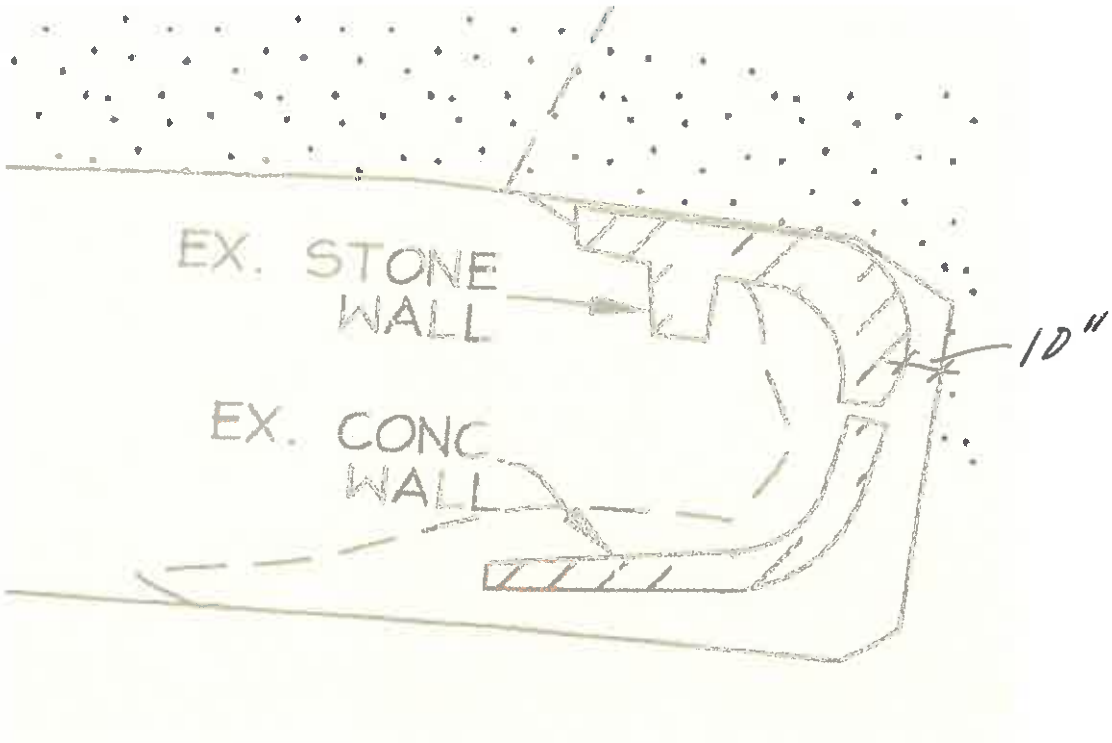


Figure 1: Detail from an early plat of the property, depicting the wall, supplied by the Applicants.

Figure 2: Photo showing the remnants of the previous wall.

NEIGHBORING CONDITIONS: 5906, 5908, 5910, 5912, & 5914 CEDAR PARKWAY

Stone wall at 5908 & 5910 (located about 1' from future sidewalk)

Stone wall at 5912 touches sidewalk

Brick wall at 5912 borders sidewalk

Stone wall and brick wall at 5912 Cedar

Stone wall and brick wall at 5912 Cedar

Fence meets sidewalk at 5914 Cedar

Cement curb meets sidewalk at 5908 Cedar

Cement curb meets sidewalk at 5908 Cedar

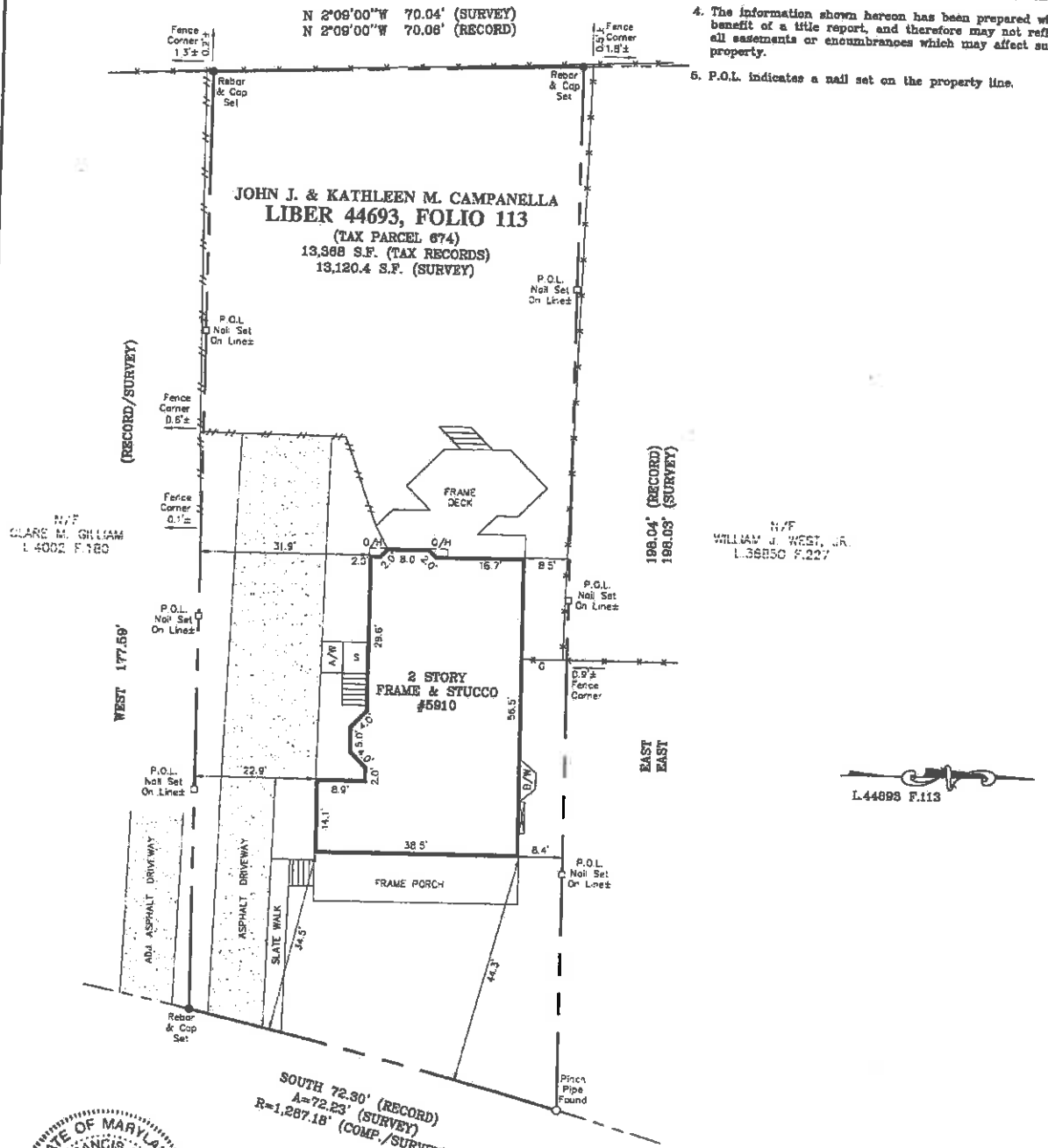
Cement curb meets sidewalk at 5906 Cedar

Chain link fence between 5908 & 5906 meets curb and sidewalk

NOTE:
All five neighboring properties have structures meeting the sidewalk. These pre-existing non-conformities are common and characteristic of Cedar Parkway homes.

GENERAL NOTES:

1. Property shown in Montgomery County Tax Assessment Map Book page HN-31.
2. All property corners have been recovered or set and verified per field survey performed: September 26, 2012.
3. Property is recorded among the land records of Montgomery County Described in Liber 44693 at Folio 113.
4. The information shown hereon has been prepared without benefit of a title report, and therefore may not reflect all easements or encumbrances which may affect subject property.
5. P.O.L. indicates a nail set on the property line.



STATE OF MARYLAND
WAYNE FRANCIS AUBERTIN
No. 21330
PROFESSIONAL LAND SURVEYOR

SURVEYOR'S CERTIFICATE

"I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN. THIS PLAT AND THE FIELD SURVEY UPON WHICH IT IS BASED WAS PREPARED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE REGULATIONS GOVERNING LAND SURVEYING IN THE STATE OF MARYLAND."

10/1/12

MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 21330
EXPIRES: 01-07-2013

PLAT OF SURVEY
PROPERTY OF
JOHN J. & KATHLEEN M. CAMPANELLA
LIBER 44693, FOLIO 113
(TAX PARCEL 674)
MONTGOMERY COUNTY, MARYLAND

REFERENCES	
PLAT BK.	
PLAT NO.	
LIBER	44693
FOLIO	113

SNIDER & ASSOCIATES
LAND SURVEYORS
20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS	
WALL CHECK:	
HSE. LOC.:	
PROP. CORS.:	09-26-12

SCALE:	1" = 20'
DRAWN BY:	J.M.
JOB NO.:	12-03869B

Chevy Chase Village

Building Permit Application for Projects in the Public Right-Of-Way

Permit No: A-6888

Property Address: 5910 Cedar Pkwy

Resident Name: Kathy Campanella

Daytime telephone: 202 320 5008 Cell phone: 202 320 5008

After-hours telephone: 301-215-4151

E-mail: Kcampanella@verizon.net

Project Description: construct ~~walls~~ on ~~north~~ south side of driveway extending ± 12" above surface of driveway

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. *(required)*:

Information for Contractor or Primary Contact for Project (if different from property owner):

Name:

Work telephone: After-hours telephone:

Cell phone:

E-mail:

Parking Compliance:

Is adequate on-site parking available for the construction crews? ☒ Yes ☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons? ☐ Yes ☒ No

Guidelines for Construction in the Public Right-of-Way

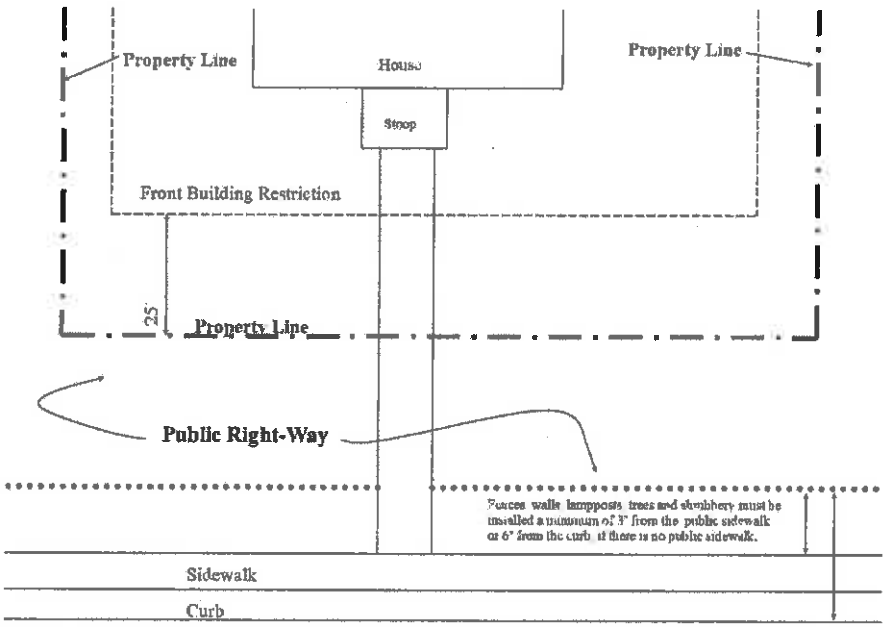
The public property located between public sidewalks and abutting private property (or, in the absence of public sidewalks, located between the paved roadways and abutting private property) where such public property is under the immediate care and keeping by an abutting property owner or occupant, shall be considered to be public right-of-way devoted to private use. Any person intending to install private improvements in the public right-of-way must first obtain a Building Permit and a License to Use the Public Right-of-Way from the Village office, subject to the provisions of Chapter 25 of the Village Code. (Residents within the Historic District must also obtain a Historic Area Work Permit; please contact the Historic Preservation Commission directly.)

The following are examples of, but not limited to, improvements requiring a Building Permit and License to Use the Public Right-of-Way:

Overhead or underground wires, cables, hoses, pipes, and similar facilities.
Improvements made by any person or persons, firm or corporation desiring to string, lay, hang, suspend or in any manner place wires of any kind, cables, hoses, pipes, and similar facilities on, over, or under any street or other public right-of-way.

Structures, play equipment, fences, walls, lampposts, trees, hedges and shrubbery.
Subject to location requirements and height restrictions as outlined in Chapter 25 of the Village Code and diagrammed below.

Example of the Right-of-Way:



Building Permit Filing Requirements:

Application will not be reviewed until the appropriate information is supplied and complete

- ☐ This application form, signed by resident.
- ☐ Boundary Survey (Plat Diagram).
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued, if applicable). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Building Officer and Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code, including the Urban Forest Code, any easements and the approved plans.

Applicant's Signature: _____ **Date:** _____

To be completed by Village staff			
Is this property within the historic district?	Yes ☐	No ☐	Staff Initials: _____
Will the License be Recorded in the Land Records?	Yes ☐	No ☐	Staff Initials: _____
Date application filed with Village: _____	Date permit issued: _____		Expiration date: _____

Building Permit Filing Requirements:

Application will not be reviewed until the appropriate information is supplied and complete

- [x] This application form, signed by resident.
- [x] Boundary Survey (Plat Diagram).
- [x] Site Plan (see: Village Site Plan Checklist to ensure completeness)
- [ ] Building plans and specifications
- [x] Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
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No signs advertising the architect, contractor, or any other service provider may be posted on the work site

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code, including the Urban Forest Code, any easements and the approved plans.

Applicant's Signature: _____ **Date:** 12-9-15

To be completed by Village staff:

Is this property within the historic district? Yes [x] No [ ] Staff Initials: CS

Will the License be Recorded in the Land Records? Yes [ ] No [ ] Staff Initials: _____

Date application filed with Village: _____ Date permit issued: _____ Expiration date: _____

For Use By Village Building Officer & Village Manager	Application approved with the following conditions:

For Use By Village Building Officer & Village Manager	Application denied for the following reasons:
DENIED JAN 26 2016 Chevy Chase Village Manager	[illegible] The structure is located within the public right of way which is not permitted under Chp 25

Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: ☑ $50.00 Construction on the R.O.W. ☐ $30.00 Planting on the R.O.W. ☐ $350.00 R.O.W. Use Agreement ☐ $175.00 R.O.W. Use Agreement for in-kind replacement of an existing non-conformity in the same location. ☑ $175.00 R.O.W. Use Agreement for which recordation in the County Land records is waived.	
Tree Preservation Plan Fee: ☐ $250.00 previously assessed ☑ Not required for this project.	
TOTAL Fees: $225.00	Date: Staff Signature:

Damage Deposit/Performance Bond (due when permit is issued)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

Chevy Chase Village

Website Posting Notice for Appeal, Special Permit & Variance Hearings

Case Number: A-6888 - continued

Hearing Date: April 14, 2016

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Kathy Campanella

Address: 5910 Cedar Parkway

Telephone: 301.215.4151

E-mail: KCampanella@verizon.net

Applicant/Appellant Signature:

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: KB Date: 3/21/16

A-6887 -continued
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6887-CONTINUED
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 31st day of March, 2016.

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

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6887- CONTINUED- VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

This case is being continued from the February 8 and March 14 monthly meetings.

William Maloni Jr., on behalf of the Applicants provided support materials, per the Board's direction, following the March meeting. Village Counsel has responded to the materials provided by the Applicants. Mr. Maloni's cover letter and Counsel's response follow this Staff Report.

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date correspondence has been received from four abutting and confronting neighbors in support of maintaining the structure; from: Ruth Robbins of 3 Magnolia Parkway; Heather & Dick Cass of 7 Magnolia Parkway; Kathleen Meredith & Burt Braverman of 2 Magnolia Parkway; and Edward T. Kelaher, Rector, on behalf of All Saints Church, 3 Chevy Chase Circle. No correspondence has been received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

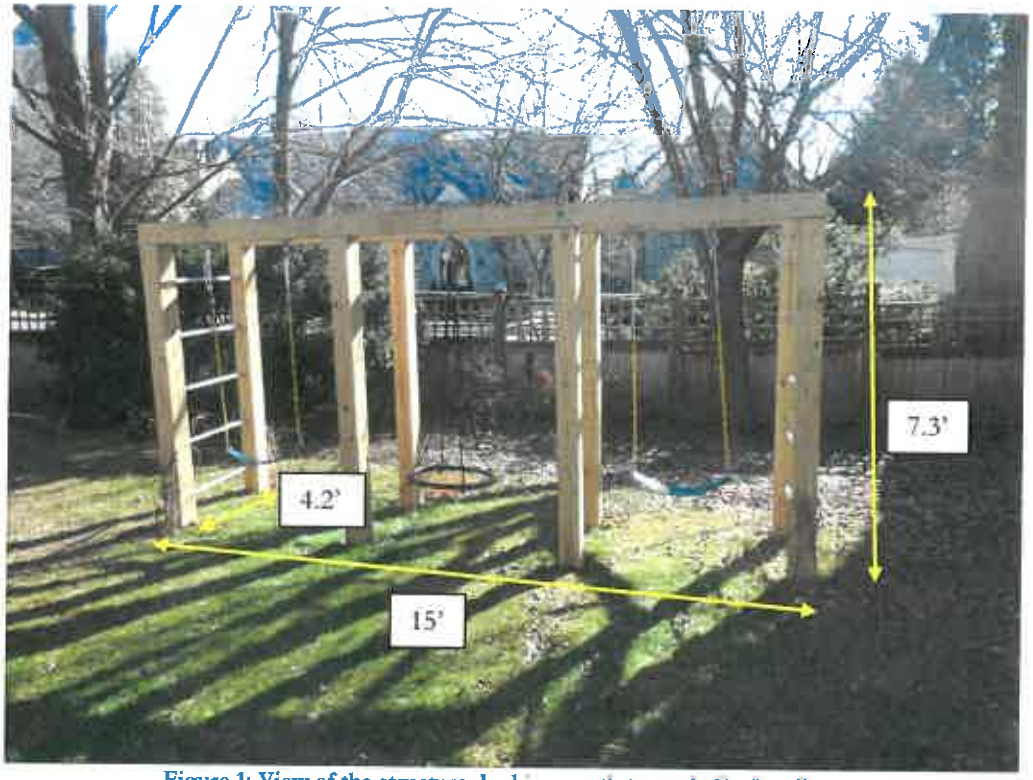

Figure 1: View of the structure, looking south towards Grafton Street.

RELEVANT PRIOR CASES

There are few precedents related to this type of structure being located forward of the front building restriction line. There are precedents for approval of items of safety, such as handrails and lampposts (and these items have since been incorporated into the Code as allowable exceptions); and variances for fences and walls (either height or proximity to public sidewalks) which are not subject to covenant restrictions. Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to require a permit for "permanently anchored play equipment" so that portable basketball hoops, trampolines, etc., which could be easily moved, would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which

violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

March 25, 2016

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

RE: Variance Case No. 6887

Ms. Sands,

I am writing on behalf of my parents, Bill and Heidi Maloni, in response to the continuance granted in the March 14, 2016 Board of Managers meeting for the variance request number 6887. We are writing to provide additional information and further explanation, as requested, in support of our variance request.

The open question at the end of the meeting was how our covenant defines the building setback restriction and how the wording of the building setback, as defined and supported by the Chevy Chase Village Code, is being applied to the placement of a children's play structure which is located five foot six inches (5'-6") inside of the Grafton Street property line of my parents' house at 5 Chevy Chase Circle. Our covenant is part of a contract that was signed when my parents purchased the house in 1992 but this covenant was written in 1909. As defined in our covenant, the property line on the Grafton Street side is set twenty (20) feet short of the lot line. In defining the property conveyed by the deed, the covenant reads as follows:

> *All of Lot numbered one (1) , except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two . . .*

While there is a discrepancy in the fact that Grafton is not necessarily the west side, but actually the south side, the covenant clearly identifies Grafton Street front line as the line impacted.

The phrase in our covenant that dictates the building setback is listed as #2 and reads as follows:

> *That no structure of any description shall be erected within twenty five (25) feet of the front line of said premises.*

This is consistent with the Chevy Chase Village Code definition of front setback found on page 95 of the (attached). The Code specifically identifies the setback as being measured off of the **front lot line**. Again referencing the Chevy Chase Village Code the definition of the front lot line can be found on page 86:

> *Front Lot Line: The boundary line or lines of a lot separating the lot from any and all streets.*

A Street is defined on page 88 of the Chevy Chase Code:

> *Street. A public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. A public sidewalk constitutes an adjunct or accessory to a street to be used for pedestrian traffic.*

Combining these statements would provide the following description

. . . no structure of any description shall be erected within twenty five (25) feet of the boundary line or lines of a lot separating the lot from any and all public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic.

The curb of Grafton Street is thirty one (31) feet off of the property line of my parents' home. The sidewalk, which is simply an accessory to the street and not part of the street, is twenty one (21) feet off the property line. The children's play structure is five feet six inches (5'-6") inside the property line thus the structure is located twenty six (26) feet inside of the most restrictive lot line, if one were to consider the pedestrian walkway as the "street" and, as such, the edge of the lot.

The covenant and the Code both make clear distinction that the setback is to be measured off of the front lot line and *not* the property line. In the March 14th meeting an assertion was made that the intent was to indicate that the setback be measured off the property line but we disagree strongly with that statement. The covenant for my parents' house includes the very specific statement that the property conveyed by the deed is twenty (20) feet off the lot line and in doing so makes a clear distinction between the lot line and the property line. The definitions of front line and front lot line, which are provided by the Chevy Chase Village Code, support this differentiation.

In both the February and March Board of Managers' meetings, the Board members expressed their desire to support our variance but stated that it could not be done because it would go against the covenant and they simply could not violate the covenant. I reference back the fact that our covenant definition of front setback is *nearly* the same but not exactly the same as the Chevy Chase Village Code. The Code definition, as found on page 95, reads as follows:

Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, ***except that*** *. . .*

The covenant goes onto say that exceptions are granted, with a variance request, for flagpoles, lamp posts, and handrails. These items are no longer considered "structures of any description" under the Chevy Chase Village Code. Additionally, just last year, legislative policy was adopted to grant an exemption for steps and porticos which encroach on the building setback. In paragraph nine (9) of the legislative policy, attached, the Board has determined that the covenants imposed by the Chevy Chase Land Company did not intend for steps which are necessary to address the change in elevation. But in the same paragraph, the board also finds that "the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce." While this situation is not directly applicable to the single children's play structure that has been erected in my parents yard, it is evidence that this board has the authority to recognize reasonable application of the covenant and sensible execution of their authority. The statement shows that the covenants are not iron clad and that a sensible and thoughtful exemption can and will be granted.

In the March 14th meeting, our neighbor, Mr. Braverman, made the very clear point that granting a variance for this type of situation is entirely within the Board's authority. A variance, by its definition is a deviation of the laws that govern the use of a property and a Board of Managers has that power to allow deviations where reasonable. We believe that the placement of the children's play structure is not only reasonable, but, as defined in the Chevy Chase Village Code and the covenant for my parents' property at 5 Chevy Chase Circle, is appropriately located within the building setback of said property.

Thank you for granting us the continuance and allowing us to provide the Board with this additional information and thank you for your consideration. We look forward to discussing this variance application further at the April 11 Board Meeting.

Sincerely,

Billy Maloni Jr, PE
5 Chevy Chase Circle
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
ATTORNEY INFORMATION REPORT

TO: BOARD OF MANAGERS
FROM: SUELLEN M. FERGUSON, ESQ.
DATE: 4/6/2016
SUBJECT: Case No. A-6887 Variance Request 5 Chevy Chase Circle

This Variance Request was first heard at the Board meeting in February, 2016. The owners of the property seek to obtain a variance to allow a "Wysteria arbor" measuring 4.2'x15'x7.3' to be installed in the Grafton Street front yard of this corner property. Because this property fronts on three streets (Chevy Chase Circle to the east, Grafton Street to the south and Magnolia Parkway to the north), it has three front yards. Due to its size, the arbor is considered a "structure" under the Village Building Code, and so is subject to the front building restriction line requirements. In addition, the covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five foot building restriction line.

Staff has determined that the structure encroaches 19'6" forward of the front building restriction line on Grafton Street. While an argument can be made for a variance based on the three front yards, pursuant to Sec. 8-9(c)(3) of the Village Code, the Board is not authorized to grant a variance that violates any covenant applicable to the property. This was stated at the meeting in February, and the applicants were given a continuance to allow additional time to propose an alternative that could be approved.

At the second hearing on this matter in March, and in a subsequent letter, Billy Maloni, Jr., on behalf of the owners (hereinafter referred to as applicant), has made various arguments with respect to why the structure is not located forward of the front building restriction line, and why a variance should be granted in any event. I have been asked to provide my opinion with respect to whether the applicant's arguments are correct. **It is my opinion that they are not correct, and that the Board cannot grant the variance.**

First, it is argued by the applicant that the front lot line and the property line for this property are not the same, and that the setback should be measured off of the front lot line and not the property line. It is argued that if the setback is measured off of the lot line, the arbor is not in

violation. As support for this, the applicant references the property description that states, in part, "All of Lot numbered ONE(1) except the West 20.00 feet front on Grafton Street by full depth thereof, of said Lot numbered ONE (1) in block number TWENTY-FIVE (25) . . ." He then argues that the front setback line should be measured from the curb on Grafton Street, which he describes as the front lot line, as opposed to the property line, which he states is twenty feet closer to the house than the lot line based on the deed description. This argument is not supported by the record.

In making this argument, the applicant states that the above-referenced property description contains a "discrepancy" on the basis that Grafton Street is on the south side of the property, not the west side, but agrees that the covenant clearly identifies Grafton Street as the front line to which it applies.

There is no discrepancy in the deed reference. The deed for 5 Chevy Chase Circle conveys all of Lot One, Block 25, except the west 20 feet. This 20 feet, together with all of Lot 2 in Block 25, constitutes the adjacent property to the west, which is 3 Grafton Street. See attached Quit Claim Deeds for 3 Grafton Street and 5 Chevy Chase Circle, and the plats for both properties, on which the west 20 feet is highlighted. As a result, there is no difference between the front lot line and the property line on Grafton Street for this property. Staff has properly located the point of measurement from that line, and the arbor encroaches into the setback.

As part of this argument, the applicant states that the front lot line should be measured from the curb at Grafton Street, instead of the property line. The front lot line is the boundary line of a lot separating the lot from any and all streets. A street is the public right of way and includes but is not limited to roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. However, the street is not only the paved portion of the right of way, but the entire right of way. It does not end at the curb. The property line marks the end of the right of way, or street, which as noted has been properly located by staff.

The applicant has also cited to a prior decision with respect to Case No. A-4431 (2002), involving a variance for placement of play equipment in a front yard at 5801 Kirkside Drive. A review of this case indicates that the setback restriction in the record for this property, as evidenced by the subdivision plat, was 20 feet and that the play equipment complied with that setback. No deed referencing the covenant setback for this property is in the record and the Board in its decision accepted the 20 foot restriction shown on the subdivision plat as evidence of the enforceable covenant. A variance was before the Board only because the play equipment location was not compliant with the Village Building Code imposed setback of 25 feet.

Finally, applicant argues that the Board may interpret the reasonable application of the covenant and exempt this structure. However, the Board has determined that certain structures are not considered structures for covenant purposes only on the basis that the original covenanters would not have intended to include them, either for safety reasons, or as evidenced by the fact that the type of structure was present at the time of the deed. This

structure does not fit in either category, and so the covenant applies and the variance cannot be granted.

A-6887 -continued
Materials submitted by William Maloni, Jr. on behalf of the Applicants following the March 14, 2016 Board meeting

- Cover Letter
- Copy of the covenants applicable to the Property
- Two site plans depicting the location of the structure
- Copy of the "Legislative Policy to Exclude Certain Stoops, Steps and Porticos from the Definition of Structures for the Purposes of the Covenant Compliance…"
- Copy of Chapter 8 ("Buildings and Building Regulations") of the Chevy Chase Village Code

March 25, 2016

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

RE: Variance Case No. 6887

Ms. Sands,

I am writing on behalf of my parents, Bill and Heidi Maloni, in response to the continuance granted in the March 14, 2016 Board of Managers meeting for the variance request number 6887. We are writing to provide additional information and further explanation, as requested, in support of our variance request.

The open question at the end of the meeting was how our covenant defines the building setback restriction and how the wording of the building setback, as defined and supported by the Chevy Chase Village Code, is being applied to the placement of a children's play structure which is located five foot six inches (5'-6") inside of the Grafton Street property line of my parents' house at 5 Chevy Chase Circle. Our covenant is part of a contract that was signed when my parents purchased the house in 1992 but this covenant was written in 1909. As defined in our covenant, the property line on the Grafton Street side is set twenty (20) feet short of the lot line. In defining the property conveyed by the deed, the covenant reads as follows:

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While there is a discrepancy in the fact that Grafton is not necessarily the west side, but actually the south side, the covenant clearly identifies Grafton Street front line as the line impacted.

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The curb of Grafton Street is thirty one (31) feet off of the property line of my parents' home. The sidewalk, which is simply an accessory to the street and not part of the street, is twenty one (21) feet off the property line. The children's play structure is five feet six inches (5'-6") inside the property line thus the structure is located twenty six (26) feet inside of the most restrictive lot line, if one were to consider the pedestrian walkway as the "street" and, as such, the edge of the lot.

The covenant and the Code both make clear distinction that the setback is to be measured off of the front lot line and *not* the property line. In the March 14th meeting an assertion was made that the intent was to indicate that the setback be measured off the property line but we disagree strongly with that statement. The covenant for my parents' house includes the very specific statement that the property conveyed by the deed is twenty (20) feet off the lot line and in doing so makes a clear distinction between the lot line and the property line. The definitions of front line and front lot line, which are provided by the Chevy Chase Village Code, support this differentiation.

In both the February and March Board of Managers' meetings, the Board members expressed their desire to support our variance but stated that it could not be done because it would go against the covenant and they simply could not violate the covenant. I reference back the fact that our covenant definition of front setback is *nearly* the same but not exactly the same as the Chevy Chase Village Code. The Code definition, as found on page 95, reads as follows:

Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, ***except that*** *. . .*

The covenant goes onto say that exceptions are granted, with a variance request, for flagpoles, lamp posts, and handrails. These items are no longer considered "structures of any description" under the Chevy Chase Village Code. Additionally, just last year, legislative policy was adopted to grant an exemption for steps and porticos which encroach on the building setback. In paragraph nine (9) of the legislative policy, attached, the Board has determined that the covenants imposed by the Chevy Chase Land Company did not intend for steps which are necessary to address the change in elevation. But in the same paragraph, the board also finds that "the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce." While this situation is not directly applicable to the single children's play structure that has been erected in my parents yard, it is evidence that this board has the authority to recognize reasonable application of the covenant and sensible execution of their authority. The statement shows that the covenants are not iron clad and that a sensible and thoughtful exemption can and will be granted.

In the March 14th meeting, our neighbor, Mr. Braverman, made the very clear point that granting a variance for this type of situation is entirely within the Board's authority. A variance, by its definition is a deviation of the laws that govern the use of a property and a Board of Managers has that power to allow deviations where reasonable. We believe that the placement of the children's play structure is not only reasonable, but, as defined in the Chevy Chase Village Code and the covenant for my parents' property at 5 Chevy Chase Circle, is appropriately located within the building setback of said property.

Thank you for granting us the continuance and allowing us to provide the Board with this additional information and thank you for your consideration. We look forward to discussing this variance application further at the April 11 Board Meeting.

Sincerely,

Billy Maloni Jr, PE
5 Chevy Chase Circle
Chevy Chase, MD 20815

State of Maryland, County of Montgomery, ss:

I hereby certify that on this sixteenth day of June in the year 1909, before me the subscriber, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Wilmer O.Platt, Mayor of the Town of Takoma Park, Maryland, and did acknowledge the aforegoing deed to be the act of said Town of Takoma Park, Maryland.

In Testimony Whereof, I have hereunto set my hand and affixed my seal this 16th day of June, 1909.

H.Edson Rogers.

H.Edson Rogers
Notary Public
Montgomery
Co.Md.

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At the request of Charles D.Cugle and Jessie Owen Cugle the following Deed was recorded May 7th A.D.1909 at 1.30 o'clock P.M., to wit.

THIS DEED, Made this 29th day of April in the year one thousand nine hundred and nine 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 Charles D.Cugle and Jessie Owen Cugle, his wife, of the City of Baltimore, State of Maryland, parties of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of fifty three hundred and sixty-five and 44/100 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:

All of Lot numbered one (1), except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two, of the Subdivision made by The Chevy Chase Land Company, of Montgomery County, Maryland, as per plat of said subdivision recorded in Libar J.A. No.36, folio 61, of the Land Records of said Montgomery County, Maryland.

To Have and To Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part, as tenants by the entirety, the survivor of them, their heirs and assigns, and the heirs and assigns of the survivor, in fee simple.

In Consideration of the execution of this Deed, the said parties of the second part for themselves and for each of them, for their and for each of 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 five thousand (5,000) dollars.

4. That any house erected on said premises shall be designed 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 J.Stellwagen, its Vice President, attested by Herbert Claude its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Harold E.Doyle, 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.

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

THE CHEVY CHASE LAND COMPANY, OF MONTGOMERY COUNTY, MARYLAND,

By:- Edward J.Stellwagen,

Vice President.

Attest.

Herbert Claude

Secretary.

District of Columbia, to wit:-

I, Albert W.Siousse, a Notary Public in and for the said District of Columbia, do hereby certify that Harold E.Doyle, who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed deed, dated the 29th day of April 1909, to acknowledge the same, personally appeared before me in the said District of Columbia, and as Attorney in fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

Given under my hand and seal this 29th day of April A.D.1909.

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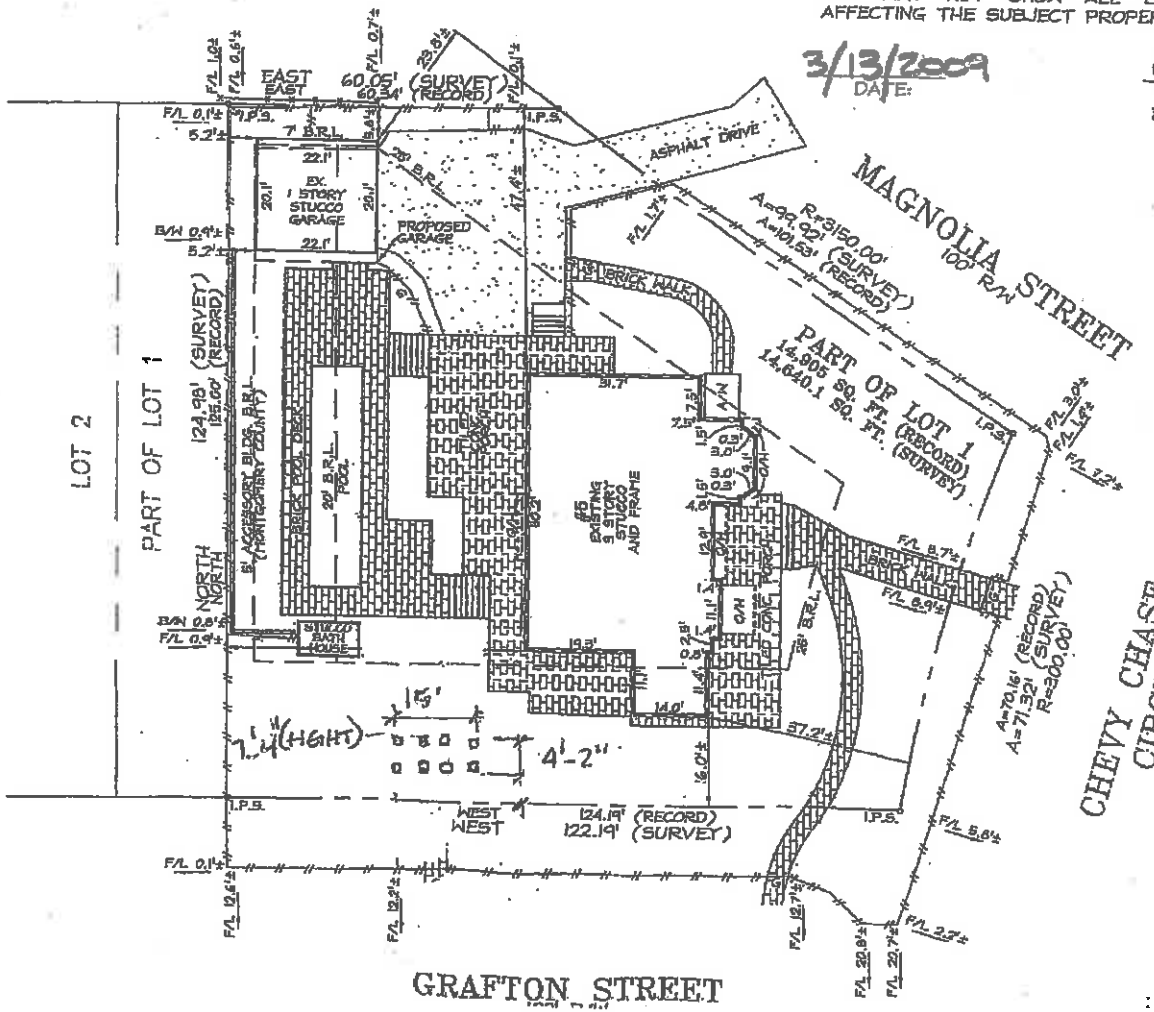
PROPOSED GARAGE INSET
SCALE 1"=10'

PART OF LOT 12



P. B. B P. 48

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . . IATION SHOWN HEREON H. BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR . ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

Joseph E. Snider

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,

BE
M

PROPOSED GARAGE INSET
LE 1"=10'

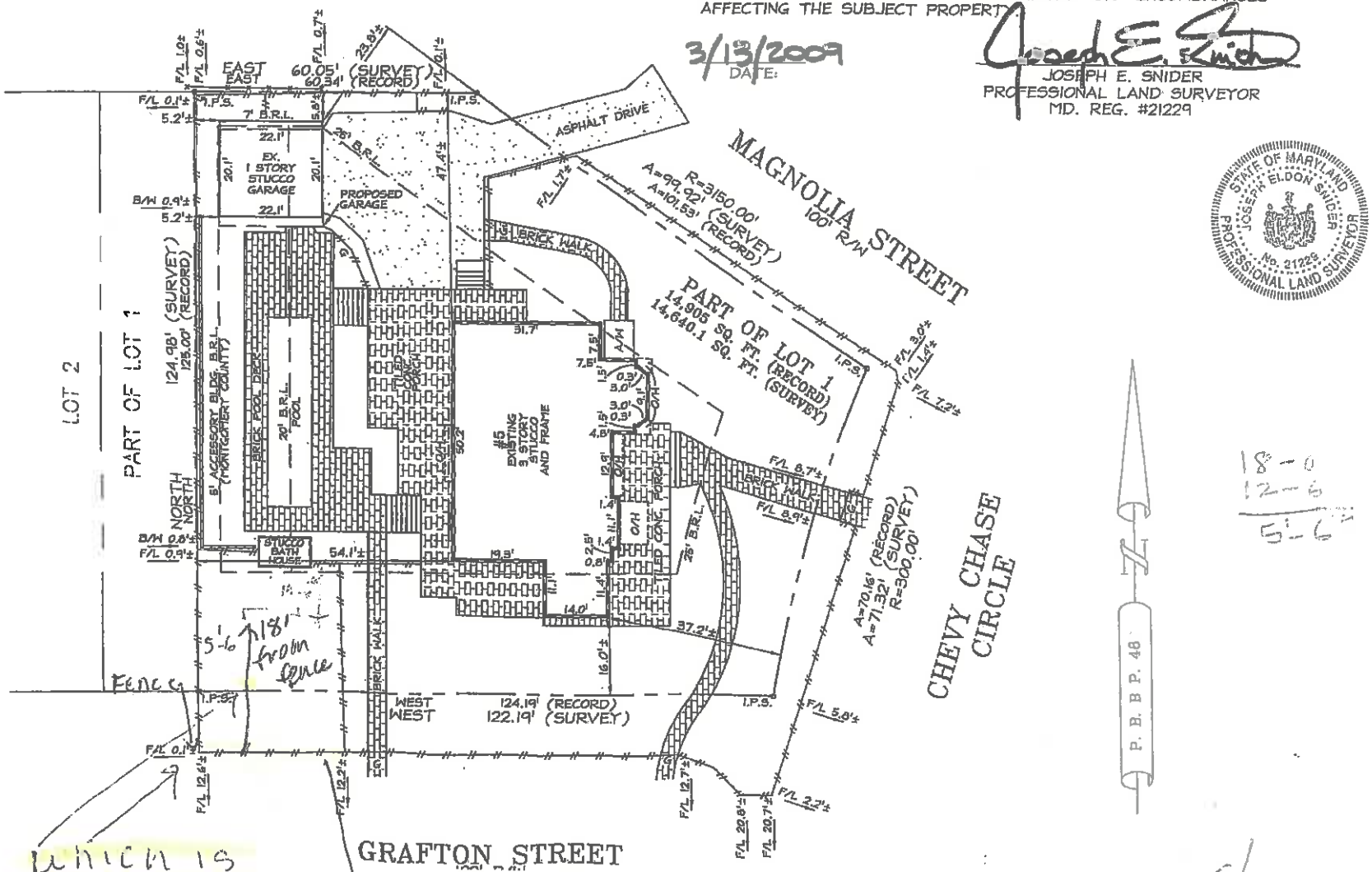
SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . IATION SHOWN HEREON H BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

8. PREMISE AD
#5 CHEVY CHAS
CHEVY CHASE,



STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

18-0
12-6
5'-6"

BE
M

5'-6" 18' from fence

Fence

which is property line?

if this is property line we have 25'

17

Legislative Policy to Exclude Certain Front Steps, Stoops and Associated Porticos from the Definition of "Structures" for the Purposes of the Covenant Compliance as required by Section 8-9(c)(3) of the Village Code for Variance Requests

RECITALS

1. Chevy Chase Village is an incorporated municipality established pursuant to Article XI-E of the Maryland Constitution.
2. Pursuant to §§5-202 and 5-211of the Local Government Article of the Maryland Code, as amended, the legislative body of each municipal corporation in the State of Maryland IS authorized to adopt ordinances, including a Building Code, 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, and to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the residents of the municipality.
3. Section 77-14 of the Chevy Chase Village Charter authorizes the Chevy Chase Village Board of Managers to pass ordinances as it may deem necessary for the health, safety or welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger and destruction; and for the suppression and abatement of nuisances.
4. Pursuant to §20-509 of the Land Use Article of the Maryland Code, a municipal corporation in Montgomery County, such as Chevy Chase Village, is authorized to regulate the construction, repair, erection or remodeling of single-family residential houses and buildings.

5. Chevy Chase Village possesses a special character which includes, but is not limited to, open vistas along streets and sidewalks.

6. Section 8-9(c)(3) of the Village Code requires a finding that "For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property."

7. The Board has found numerous properties where stoops, or stoops and steps, whether uncovered or with associated porticos, which are necessary to address the change in elevation from the ground to the entrance of a house, encroach into the standard twenty-five (25) foot front setback required by the covenants applicable to most properties.

9. Although the Board has in the past interpreted the term "structure", as used in the covenants imposed by the Chevy Chase Land Company, to include stoops, steps and porticos, the Board finds that either: a) the covenant authors did not intend steps and stoops, whether uncovered or with an associated portico, which are necessary to address the change in elevation from the ground to the primary entrance of a house, and to allow for reasonable, safe access, to be deemed structures for the purposes of the twenty-five (25) foot front setback for properties in the Village; or b) that the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot setback would render the twenty-five (25) foot setback difficult to enforce.

10. The Board finds that, for determining covenant compliance under Sections 8-9(b) and (c), stoops, or stoops and steps, whether uncovered or with an associated

portico, that are installed as a matter of necessity to address the change in elevation from the ground to the primary entrance of a house, which steps, stoops and associated portico are the minimum necessary to provide reasonable, safe, access, including for wheel chairs, should not be deemed "structures." For purposes of this policy, the dimensions of an associated portico shall be comparable to the stoop and shall include only those posts necessary for support.

11. All steps, stoops and associated porticos should continue to be deemed structures for the purposes of the setback requirements in Section 8-16 of the Village Code.

Now, therefore, on this 9th day of February, 2015, the Chevy Chase Village Board of Managers, acting under and by virtue of the authority given it by the Act of Legislature approved March 28, 1951, and Acts subsequent thereto, Division II of the Local Government Article of the Maryland Code, and the Chevy Chase Village Charter that:

1. Recitals. The recitals set forth above are incorporated in this Policy as the findings of the Board of Managers.
2. Policy. For the purpose of determining covenant compliance under Village Code Section 8-9(c)(3), stoops, or steps and stoops, whether uncovered or with an associated portico which are necessary to address the change in elevation from the ground to the primary entrance of a house, and are the minimum necessary to provide reasonable access, including for wheel chairs, shall not be considered "structures."

3. Setbacks. All steps, stoops and associated porticos shall continue to be deemed structures for the purposes of the setback requirements in Section 8-16 of the Village Code.
4. Term. This policy shall become effective immediately upon its passage and shall remain in effect until repealed by the Board of Managers.
5. This policy is intended to supersede and replace in its entirety the policy adopted by the Board of Managers on the 14th day of February 2011, entitled "Legislative Policy to Exclude Certain Uncovered Front Steps and Stoops from the Definition of 'Structures' for the Purposes of the Covenant Compliance as Required by Sections 8-11(b) (3) and 8-11(c)(3) of the Village Code for Special Permit and Variance Requests".

_____
Michael L. Denger, Chairman
Chevy Chase Village Board of Managers

ATTEST:

_____
Richard Ruda, Secretary

DATED: _____

CHAPTER 8 BUILDINGS AND BUILDING REGULATIONS

Article I. In General
Sec. 8-1. Definitions.

Sec. 8-2. County Building Code.

Sec. 8-3. Reserved.

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(k) Rear of house.
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(b) Interference with traffic.
(c) Obstruction of view.
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(f) Existing features.

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(a) Size and location.
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Sec. 8-23. Tennis courts.
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(c) Screening of therapeutic baths.
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(e) Lighting.
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(b) Adverse effect.
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Article I. In General

Sec. 8-1. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Accessory building: A building subordinate to, and located on, the same lot or lots with a main building, the use of which is clearly incidental to that of the main building or to the use of the land and which is not attached by any part of a common wall or common roof to the main building, including without limitation sheds of any size.

Administrative Special Permit; administrative variance: Special Permits and variances that would otherwise require the approval of the Board of Managers but that may, in certain circumstances set out in Sec. 8-11, be granted by the Village Building Officer and Village Manager.

Alley: A right-of-way which provides secondary access for vehicles to the side or rear of abutting properties.

Antenna: Equipment designed for the transmission or reception of electromagnetic waves. All wires, poles, dishes, towers and other appurtenant equipment shall be deemed to be a part of the antenna.

Building: A structure having one (1) or more stories and a roof, designated primarily for the shelter, support or enclosure of persons, animals or property of any kind.

Building height: The vertical distance measured from the average elevation of the finished grade or pre-development grade, whichever is lower, along the front of the building to:

(1) The highest point of roof surface regardless of roof type, and

(2) The mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof.

Accessory structural elements located on the roof shall be subject to the building height requirements.

Building line: A line, parallel to a lot line, creating an area into which a structure must not project.

Building Officer: One member of the Board of Managers, appointed annually or at such other times as the Board of Managers may determine is in the public interest, to act as the designee of the Board of Managers to perform the functions of the Building Officer as described in this Chapter.

Cheek wall: A retaining wall immediately adjacent to steps that is in reasonable proportion to the rise and run of the steps.

Curb cut: A depression in the curb, for the purpose of accommodating a driveway that provides vehicular access between private property and an improved roadway, or where there is no curb, the intersection of the driveway and edge of the improved roadway.

Developmental nonconformity: Any part of an existing structure that was lawful when constructed or installed, but that no longer conforms to the requirements of this Chapter because of the amendment thereof.

Dumpster: A receptacle designed or used to store construction and/or demolition debris awaiting transportation to a disposal site, including, but not limited to, detached wheeled trailers.

Floor area ratio (FAR): The ratio of the total gross floor area of all buildings on a lot to the total square footage of the lot.

Footprint: The external or outer boundaries of a building's architectural plan. "Footprint" includes fixed external protrusions such as bay or bow windows, porches, porticos, decks, stoops and eaves.

Front lot line: The boundary line or lines of a lot separating the lot from any and all streets.

Front yard: The area located between the front lot line and the front main building line or, in cases where no building exists, the front building restriction line.

Gross floor area: The sum of the gross horizontal areas of all stories (whether or not a floor has actually been laid) of all buildings on the lot. Gross horizontal areas are measured from the exterior faces of exterior walls.

(1) The following areas are included in the gross floor area for the purpose of computing the floor area ratio.

a. Except as provided below, all floor area at or above the first floor joists.

b. If an attic has a clear ceiling height of seven (7) feet at any point, all areas of the attic with at least five (5) feet of clear ceiling height shall be included.

c. Multi-story space. Any space with a clear ceiling height greater than ten (10) feet from floor to ceiling shall count at the rate of ten (10) percent for each foot of average height over ten (10) feet, rounded to the nearest foot. For example, a room with an average ceiling height of fourteen (14) feet will count at the rate of one hundred forty (140) percent (one hundred (100) percent for the base floor and forty (40) percent for the virtual floor).

d. Enclosed porches. A porch shall be deemed enclosed if it is enclosed on at least three (3) sides. A side shall be deemed enclosed if:

1. It is screened; or

2. It has a wall over thirty-eight (38) inches in height.

e. Basements and cellars. All sections of a basement or cellar with at least five (5) vertical feet of exposed exterior wall shall count toward gross floor area at the rate of seventy-five (75) percent.

(2) The following areas are excluded from the gross floor area for the purpose of computing floor area ratio.

a. The first two hundred forty (240) square feet of one accessory building per lot.

b. If an attic does not have a clear ceiling height of seven (7) feet at any point, all attic space.

c. If an attic has a clear ceiling height of seven (7) feet at any point, all attic space with a clear ceiling height of less than five (5) feet.

d. Unenclosed roofed porches.

e. Porches, balconies, patios, breezeways, carports, decks, overhangs, eaves, awnings and similar structures which are enclosed on fewer than three (3) sides.

f. Sections of a basement or cellar with less than five (5) vertical feet of exposed exterior wall.

Lot: The land designated as a separate and distinct lot or parcel of land on a legally recorded subdivision plat or deed filed among the land records of the County (also sometimes referred to as a "property").

Lot coverage: The portion of a lot which is covered by buildings, accessory buildings, and raised structures such as covered and uncovered porches, balconies, and decks, covered and uncovered steps, stairways, and stoops, and bay and bow windows . Lot coverage does not include: (1) eaves, gutters, and similar overhangs; and (2) features that are not raised such as walkways, patios, terraces, driveways, swimming pools and tennis courts.

Outdoor therapeutic bath: A bath commonly known as a spa or hot tub, or having similar characteristics, built above or below ground outside of a residential building, provided such bath does not exceed a depth of forty-eight (48) inches at any point or a diameter or length of eight (8) feet. If these dimensions are exceeded, the bath shall be considered a swimming pool for the purposes of this Chapter.

Plane length: The horizontal length along the face of any exterior wall of a building.

Plate height: For a building with a flat or a sloping roof, the height to the top horizontal framing member of a wall from the top surface of the first finished floor.

Portable storage unit: A container designed or used for the outdoor storage of personal property which is movable and is typically rented to owners or occupants of a property for their temporary use.

Portable swimming pool: Any swimming pool (as defined below), which is movable and less than eight (8) feet in diameter or length, shall be deemed a portable swimming pool.

Public right-of-way: Any land within the borders of the Village over which the Village has control, ownership, or which has been dedicated to public use, including any sidewalk or street.

Rear yard: The area located between the rear main building line and the rear lot line. In the case of a corner lot, the determination as to which portions of the property constitute the rear and side yards

shall be made by the owner/s of the lot in accordance with the Montgomery County zoning ordinance for determining the rear yard of a corner lot.

Side wall: A wall running parallel (or approximately so) to a side property line.

Single family: An individual, or two (2) or more persons related by blood, adoption or marriage, together with not more than one (1) other unrelated person, excluding service personnel, living together as a single housekeeping unit.

Special Permit: Permission granted by the Board of Managers pursuant to, and subject to the conditions of, Sec. 8-9(b) of this Chapter, to construct, install, remove or alter a structure or planting, or take any other action for which a Special Permit is required by this Chapter. Except as provided in Sec. 8-11, a Special Permit can be granted only by the Board of Managers.

Street: A public or dedicated right-of-way, including, but not limited to, roadways, parkways, avenues, highways or other public thoroughfares or ways for vehicular or pedestrian traffic. A public sidewalk constitutes an adjunct or accessory to a street to be used for pedestrian traffic.

Structure: An assembly of materials forming a construction including, but not limited to, buildings, accessory buildings, open sheds, shelters, tennis courts, antennae, air conditioners, generators, heat pumps, swimming pools, therapeutic baths and permanently anchored play equipment, but not including walkways, patios, or driveways.

Swimming pool: Any outdoor pool or container for water, either above or below ground, over eighteen (18) inches deep at any point or having a capacity for a minimum of eighteen (18) inches of depth, which has been dammed up, produced, or constructed by human labor and skill and which is used or intended to be used for swimming, wading, diving or water play. The words "swimming pool" shall not include a portable pool eight (8) feet or less in diameter or length, or an outdoor therapeutic bath as previously defined herein.

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

Walkway: An improved surface greater than twenty (20) square feet in total area constructed on a base and intended for private use by pedestrians.

Wall: An architecturally solid construction of stone, brick or other material, greater than twelve (12) inches in height, and intended for the purposes of privacy, security, enclosure, or to hold back earth.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-02-02, 10-14-02; No. 06-01-08, 06-16-08; No. 10-05-08, 12-08-08; No. 06-03-09, 07-13-09; No. 03-02-10, 05-10-10; No. 04-01-14, 04-14-14.)

Sec. 8-2. County Building Code.

The Building Code of Montgomery County, Maryland, shall be applicable in the Village as a County ordinance and shall be in addition to and not in lieu of the specific provisions of this Chapter or the building restrictions which are incorporated in deeds of conveyance within the Village. Nothing in this Chapter shall be construed to relieve any person from the requirement of obtaining a Building Permit from the County Department of Permitting Services or its successor agencies, or from obtaining approval from any other County or State agency regulating such construction. On any property within the Village, any new construction, or material alteration, replacement or addition to an existing building, structure or property, shall be governed by the County Building Code, except as otherwise required by this Chapter or the building restrictions incorporated in deeds of conveyance. Any person proposing to erect such new building or structure, or make a material alteration, replacement or addition to such existing building, structure or property, must first obtain any required County permit and then any required Village Building Permit as provided in Sec. 8-5.

(9-13-93; No. 04-01-14, 04-14-14.)

Sec. 8-3. Reserved.

Article II. ADMINISTRATION

Division A. Permits

Sec. 8-4. Delegation of authority by Board of Managers.

(a) Delegation to Village Manager. Under the authority vested in it by the legislature of the State, and subject to the review authority set forth in Sec. 8-9, the Board of Managers has delegated to the Village Manager the duty and authority to enforce, or cause to be enforced, the requirements of all deeds or covenants of properties situated within the Village and the requirements of this Building Code. In the exercise of this duty, the Village Manager is authorized to issue Building Permits.

(b) Report on permits issued. The Village Manager shall report to the Board of Managers at each regular monthly meeting all Building Permits issued during the preceding month.

(9-13-93; No. 04-01-14, 04-14-14)

Sec. 8-5. Building Permits.

A. Residential Building Permit - Any person intending to construct, install, replace, alter, add to, expand, or make any material alteration to any of the following, whether on private property or in the public rights of way (see Chapter 25) must first obtain any required County Building Permit, and then obtain any required Building Permit from the Village. While not all structures require a Building Permit, all structures as defined in this Chapter are subject to location and setback requirements.

(1) A new building,

(2) An existing building where such action would expand the existing boundaries or footprint or increase the height of such existing building,

(3) A garage or accessory building, including sheds of any size (see Sec. 8-20),

(4) A raised exterior deck,

(5) A swimming pool or outdoor therapeutic bath (see Sec. 8-24),

(6) A tennis court (see Sec. 8-23),

(7) Permanently anchored play equipment (see Sec. 8-21(f)),

(8) A lamp post or hand rail (see Sec. 8-16(c)(2) and (3), Sec.8-21 and Chapter 25),

(9) A driveway or any material part thereof (see Sec. 8-26 and Chapter 25),

(10) A walkway or any material part thereof (see Chapter 25),

(11) A fence, wall or any material part thereof (see Sec. 8-21 and Chapter 25),

(12) Any external antenna, air conditioner, generator or heat pump, including the replacement of any such external feature that is a developmental nonconformity (see Sec. 8-19 and 8-22).

(13) A geothermal system,

(14) Impermeable surfaces, such as patios, terraces or other paving, or gutters, sewers,

stormwater or drainage systems, that alter the existing flow of water and/or may cause water to flow onto neighboring property or onto the public right-of-way (see Sec. 8-25),

(15) A dumpster (see Sec. 8-7), or

(16) A portable storage unit (see Sec. 8-7).

B. Non-Residential Building Permit - On any property within the Village which is not residentially zoned, any new construction, or material alteration, replacement or addition to an existing building or structure shall be governed by the County Building Code; provided, however, that any person proposing to erect such a new building or structure or make a material alteration, replacement or addition to such an existing building property must first obtain any required County Building Permit, and then obtain any required Building Permit from the Village.

(9-13-93; No. 02-02-10, 02-16-10; No. 06-01-13, 06-10-13; No. 04-01-14, 04-14-14.)

Cross reference(s)--Urban Forest, Ch. 17. Public Rights-of-Way, Ch. 25. Fine for violation of this Section, Sec. 6-3(a)(1).

Sec. 8-6. Building Permit issuance and conditions.

(a) Application. An application for a Building Permit, and for any Special Permit, variance and license requests, shall be made to the Village Manager accompanied by a set of plans and specifications of the construction intended, at a scale sufficient to facilitate review by the Village Manager. The Village Manager shall retain a copy thereof. To be accepted as complete by the Village Manager, the plans shall include a survey that, in the judgment of the Village Manager, is accurate and reasonably current, and show the location of the existing and intended structures on a site plan of the applicant's lot. When the plans and specifications are approved, the Village Manager shall indicate approval thereon and issue a Building Permit. By application for a Building Permit, Special Permit, or variance or license, the applicant and owner give consent to the Village Manager or designee to enter onto the property to inspect any activity encompassed in the permit, variance or license, as often and at such times as deemed necessary during the course of the activity to ensure compliance with this Chapter, covenants, and other applicable law.

(b) Conditions. The Village Manager is authorized to impose conditions to protect the public health, safety or welfare when issuing a Building Permit. The conditions which the Village Manager may impose shall include, but are not limited to:

(1) Prohibiting or limiting the parking of contractors' or other construction-related vehicles in the public right-of-way;

(2) Limiting the locations upon private property where contractors' or other construction-related vehicles may be parked;

(3) Limiting the locations upon which construction materials may be stored;

(4) Limiting the locations upon which portable toilets may be placed or maintained, including prohibiting the placing or maintaining of portable toilets;

(5) Limiting the locations upon which construction debris may be stored, whether or not such debris is contained;

(6) Requiring that construction and/or demolition activities strictly comply with a tree preservation plan approved by the Village Manager;

(7) Such other terms or conditions as may be determined by the Village Manager to be necessary to protect the public health, safety or welfare.

(c) Duration. Work on buildings or alterations or additions must be commenced within six (6) months after the issuance of any Building Permit, and must be completed within one (1) year from the date of

issuance. The Village Manager may grant an extension of up to one additional year, upon such conditions as the Village Manager may set, upon a reasonable showing by the permittee that there has been no material change in circumstances since the issuance of the permit and that, despite due diligence by the permittee, additional time is necessary to accomplish the approved construction. A denial of an extension by the Village Manager may be appealed to the Board of Managers within 15 days of the effective date of such denial pursuant to Sec. 8-10.

(d) Modification of approved plans. No person or persons shall erase, modify or alter any plans or specifications after they have been approved and a permit issued thereon. If during the progress of work it is desired to deviate materially from the approved plans or specifications, notice of such intent shall be given in writing to the Village Manager, and his/her written approval shall be obtained before such amendment is made. No person or persons shall proceed with any activity requiring a Village Building Permit except in accordance with the approved plans and specifications, and any amendments approved by the Village Manager.

(e) Covenants. No Building Permit shall be issued unless it conforms to the applicable requirements and covenants of deeds of conveyance.

(9-13-93; No. 9-2-95, 9-11-95; No. 3-1-96, 3-11-96; No. 3-4-96, 3-11-96; No. 3-01-99, 4-05-99; No. 06-01-05, 06-13-05; No. 02-03-09, 02-09-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Municipal infraction fines, Sec. 6-3(a)(3) and Sec. 6-3(a)(16).

Sec. 8-7. Dumpsters and portable storage units.

(a) Duration. The Village Manager may issue a permit for a dumpster for up to ninety (90) days, and a permit for a portable storage unit for up to thirty (30) days.

(b) Extension. Notwithstanding Sec. 8-6, the Village Manager may authorize an extension of a permit for a dumpster for up to ninety (90) days, and a permit for a portable storage unit for up to thirty (30) days, upon such conditions as the Village Manager may deem necessary, provided the applicant demonstrates that factors beyond the applicant's control warrant such extension.

(c) Location. No person shall place or maintain a dumpster or a portable storage unit or dumpster on public property or in the public right-of-way.

(No. 10-02-02, 10-14-02; No. 10-05-08, 12-08-08; No. 04-01-14, 04-14-14.)

Sec. 8-8. Reserved.

Division B. Appeals, Special Permits and Variances

Sec. 8-9. Review authority of Board of Managers.

In addition to any other authority it may have, the Board of Managers shall have the following powers:

(a) Appeals. To hear and decide appeals on a de novo basis arising from the granting or denial of a Building Permit or any allegation that there is an error in any requirement, determination or decision by the Village Manager in the administration or enforcement of this Chapter.

(b) Special Permits. To hear and decide any application for a Special Permit required by this Chapter. Such a Special Permit may be granted by the Board of Managers only if it finds that:

(1) The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;

(2) The proposed Special Permit can be granted without substantial impairment of the intents and purposes of this Chapter; and

(3) For all Special Permits, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property.

(c) Variances. To hear and decide any application for a variance from the requirements of this Chapter. Such a variance may be granted by the Board of Managers only if it finds that:

(1) The proposed variance is required because special conditions exist whereby the enforcement of the requirements of this Chapter would result in unwarranted hardship and injustice to the owner.

(2) The proposed variance would most nearly accomplish the intents and purposes of the requirements of this Chapter; and

(3) For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-2-05, 10-27-05; No. 06-01-13, 06-10-13; No. 04-01-14, 04-14-14.)

Cross reference(s)—Public Rights-of-Way, Chp. 25.

Sec. 8-10. Review procedures.

(a) Filing of appeals. Any person aggrieved by a decision or action of the Village Manager arising from the granting or denial of a Building Permit may file a de novo appeal to the Board of Managers. Such appeal shall be filed within (30) days after issuance of the decision by the Village Manager. The Village Manager shall transmit to the Board of Managers all documents and papers pertaining to the appeal which shall constitute the record on appeal.

(b) Applications for Special Permits or variances. An applicant who has been denied a Building Permit by the Village Manager for nonconformance with this Chapter may apply to the Board of Managers for a Special Permit or variance. An application shall also be made prior to construction or installation of any structure that does not require a Building Permit if the location or setback would require a variance. The application and accompanying maps, plans or other information shall be submitted to the Village Manager, who shall place the matter on the board agenda and announce a public hearing thereon, which shall be held at a regular monthly or special meeting of the Board of Managers. The Village Manager shall give written notice of such hearing to the applicant and owner, and to abutting and confronting property owners, at least ten (10) days prior to the meeting of the Board of Managers at which such application is to be heard. In addition, the property shall be posted with a sign which shall include the case number, nature of the application, and the date, time and place of the hearing. The sign shall be placed no more than five (5) feet from the sidewalk, if one exists, or five (5) feet from the curb or the edge of the paved portion of the street if there is no curb. In the case of a lot abutting more than one (1) street, a sign shall be posted for each abutting street.

(c) Quorum. For the conduct of any such review hearing, a quorum shall be not less than four (4) members of the Board of Managers and in all instances an affirmative vote of four (4) members of the Board of Managers shall be required to overrule any decision or action of the Village Manager or to approve any Special Permit or variance, provided that nothing in this section shall be construed to relieve any person from the requirements of obtaining any required County Building Permit, Special Permit or variance.

(d) Decision. At the review hearing, any party may appear in person or by agent or attorney. In exercising its powers, the Board of Managers may reverse or affirm, wholly or in part, or may modify, the decision or action of the Village Manager as it deems appropriate. In any event, the decision of the Board of Managers may not expand the request originally advertised to the public. The decision of the Board of Managers shall be made in writing. The effective date of any decision of the Board of Managers shall be the date that notice of the board's written decision is mailed to the appellant.

(e) Record of decisions. The Secretary of the Board of Managers shall keep minutes of all review

hearings, showing the vote of each member, and whether any member was absent or declined to vote. These minutes and the Board of Managers' decisions shall be filed in the Village office and shall be a public record.

(f) Extension. The Village Manager may extend any time limit imposed as a condition of a Special Permit or variance for a period of up to one additional year upon a reasonable showing that there has been no material change in circumstance since the Special Permit or variance was granted and that, despite due diligence by the permitee, additional time is necessary to accomplish the approved construction.

(9-13-93; No. 11-1-93, 11-22-93; No. 9-2-95, 9-11-95; No. 10-1-01, 10-8-01; No. 10-02-05, 10-27-05; No. 04-01-14, 04-14-14.)

Sec. 8-11. Administrative Special Permits, administrative variances and the Building Officer.

(a) Administrative action. Notwithstanding anything in this Chapter to the contrary, variances and Special Permits that would otherwise be subject to approval by the Board of Managers may be granted administratively as provided in this Section.

(b) Scope of administrative action. The Building Officer and the Village Manager, by joint action, may grant administrative Special Permits and administrative variances for the following construction:

(1) Replacement of an existing fence, provided that there are no material differences between the replacement fence and the existing fence with respect to location, height and materials and that the replacement fence does not block light and air to a greater extent than the existing fence.

(2) Replacement of an existing driveway, provided that:

(a) the replacement driveway is not wider than the existing driveway, and

(b) the replacement driveway is in substantially the same location as the existing driveway.

(3) Replacement of an external air conditioner, generator or heat pump (collectively referred to as "equipment"), provided that the replacement equipment is not materially larger and does not encroach farther into any setback than the existing equipment.

(4) Demolition of buildings.

(c) Application process. Upon receipt of an application that has been accepted as complete for an administrative Special Permit or administrative variance, the Village Manager shall give written notice of the application to all abutting and confronting property owners and to all members of the Board of Managers. In addition, the property shall be posted with a sign which shall include the case number, nature of the application, and the date by which comments may be submitted. An abutting or confronting property owner, a member of the Board of Managers or a Village resident or owner, within 15 days of the date notices are issued, may submit written comments and/or may request that the application be submitted to the Board of Managers in accordance with Sec. 8-10 of this Chapter. The Building Officer and the Village Manager may, in their discretion, grant a request to have the application considered by the Board of Managers. The Building Officer and the Village Manager may, on their own initiative, refer the application to the Board of Managers. Notwithstanding the foregoing, for Special Permits and variances for equipment described in Sec. 8-11(b)(3), the Building Officer and the Village Manager may waive the 15-day notice and comment period upon a showing of good cause. Absent the filing of request for review by the Board of Managers, the administrative Special Permit or administrative variance may be granted by the Building Officer and Village Manager.

(d) Decision. The decision to grant or deny a request for an administrative variance or Special Permit shall be made in writing. The effective date of the decision shall be the date the written decision is approved by the Building Officer and the Village Manager. The decision shall promptly be provided to the applicant and to any other person who submitted comments and/or requested a hearing by the Board of Managers.

(e) Appeal. A denial by the Building Officer and the Village Manager may be appealed de novo to the Board of Managers within 15 days of the effective date of the decision denying the administrative Special Permit or administrative variance. (See Sec. 8-10.)

(No. 09-01-11, 09-12-11; No. 04-01-12, 04-09-12; No. 04-01-14, 04-14-14.)

Sec. 8-12. Reserved.

DIVISION C. ENFORCEMENT

Sec. 8-13. Remedial action, stop work order, revocation, violations.

(a) Authority of the Village Manager. Whenever the Village Manager determines that any activity that requires a Building Permit within the Village is being carried out in a manner which threatens the public safety or health, or that any work is being carried out in violation of this Code, the Village Manager may:

(1) Impose such conditions, in addition to any conditions that were imposed upon the issuance of the Building Permit for the project under Sec. 8-6(b), as the Village Manager deems necessary to protect the public health, safety or welfare, and/or

(2) Suspend or revoke the Building Permit for the project if the Village Manager deems such action necessary to protect the public health, safety or welfare, and/or

(3) Request the Board of Managers to take such remedial action as is necessary to eliminate the threat to the public safety or health, or, if he/she certifies that time is critical, he/she may issue a stop work order requiring that such activity to be stopped immediately and promptly notify the chair of the Board of Managers of this action and provide a written certification. A stop work order may be approved or disapproved by the Board of Managers.

a. The stop work order described herein shall be issued by the Village Manager to the owner of the property and the permit holder and served by personal service or by mailing a certified mail notice and by posting. The posting of the notice on the property shall be sufficient service upon all persons physically on the property.

b. It shall be unlawful for any person to continue work in or about such construction after having been served with a stop work order, except such work as is necessary to remove a violation or to eliminate an unsafe condition.

(b) Revocation of permit. A Building Permit may be revoked by the Village Manager if the work has stopped for thirty (30) consecutive days.

(c) Reforestation. If construction and/or demolition activities do not strictly comply with a tree preservation plan imposed under Sec. 8-6(b) and a tree, the removal of which is regulated by Chapter 17, dies within five (5) years of such violation, the owner of the property on which such violation occurred shall reforest with a deciduous hardwood canopy tree of at least 2½ inch caliper at the time of installation and of a species that attains a mature height of at least 45 feet. If the permit holder is not the owner of the property, the permit holder and the owner shall be jointly and severally obligated to reforest.

(d) Alteration or removal of equipment or work. Any person violating or failing to comply with this Chapter in whole or in part shall make or cause to be made such alteration or removal of construction equipment or work commenced or finished as may be necessary to abate the violation. If such remedy is not completed within fifteen (15) days from the date of notification of violation, unless the Board of Managers by a carried motion establishes a different time, the Board of Managers may abate the violation, and the cost of such work and the damages resulting therefrom shall be paid by such person upon request of the Board of Managers. The cost of any remedial action and the damages resulting from any such violation may be specially assessed against the property upon which the violation existed to be collected in the same manner

as municipal taxes or collected by a suit for damages.

(e) Failure to complete work. Failure to complete all work, in accordance with the terms and conditions of a Building Permit or Special Permit, by the expiration date of such permit (as the same may be extended pursuant to Sec. 8-6(c), shall be a violation of this Chapter. Each day after the permit expires that such work is incomplete shall constitute a separate violation.

(f) Failure to comply with permit or variance. Failure to comply with any term or condition of a Building Permit, or any term or condition of any applicable approved variance, shall be a violation of this Chapter. Each day that a violation exists shall constitute a separate violation.

(9-13-93; No. 06-01-05, 06-13-05; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(4).

Sec. 8-14. Municipal infraction; penalties.

(a) Prosecution and penalties. All property owners and occupants are responsible for compliance with this Chapter. Violation of any provision of this Chapter shall be a municipal infraction unless otherwise specifically provided. Any person or persons guilty of a municipal infraction shall be subject to such prosecution and penalties as are provided in Chapters 5 and 6 of this Code. Any person who violates this Chapter or directs or allows another to commit an act that violates this Chapter, the person's employer if the person acted in the course of his or her employment, and any property owner who allows a violation of this Chapter on his or her property, shall be guilty of a violation and shall be jointly and severally subject to prosecution and the penalties provided in Chapters 5 and 6 of this Code. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

(b) Legal action. The Village may institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this Chapter in any court of competent jurisdiction.

(9-13-93; No. 02-03-09, 02-09-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Municipal infraction fines, Sec. 6-3 (a).

Sec. 8-15. Reserved.

ARTICLE III. PRIVATE PROPERTY REGULATIONS

Sec. 8-16. Residential building construction prohibitions.

(a) Compliance with this Chapter. On any property zoned in a residential category, no person shall construct any building, structure or shall make any material alteration or addition to the exterior of an existing building or other structure except in accordance with the restrictions set forth in this Chapter.

(b) Residential purposes. All houses in the Village shall be built for residential purposes exclusively, except accessory buildings for use in connection with such residences. No trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon any premises within the Village.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot, except that:

(1) One flagpole, not exceeding fifteen (15) feet in height, may be erected not less than fifteen (15) feet from the front lot line; and

(2) Handrails may be installed:

a. on or beside steps in a yard where there is a change in grade upon a finding by the

Village Manager that the handrails are required for safety, and

b. on or beside steps leading to a door or porch upon a finding by the Village Manager that the handrails are required for safety; and

(3) One lamp post with a single lantern, not exceeding ten (10) feet in height, that complies with Sec. 8-21 may be installed.

(d) Recorded lots. Every building shall be located on a recorded lot.

(e) One dwelling on lot. There shall not be more than one (1) single-family dwelling on one (1) lot.

(f) Single family occupancy. Any house erected on any lot shall be designed and constructed for the occupancy of a single family.

(g) Side and rear setback. Except as otherwise specifically stated in this Chapter, no part of any building or structure shall be erected or maintained within seven (7) feet of the side or rear lot lines, nor within ten (10) feet of the nearest adjacent dwelling, provided, however, that externally attached gutters shall not be considered part of any building or structure for purposes of this subsection (see Sec. 8-19.)

(h) Rear setback for main building. 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.

(i) Frontage and area of lot. No permit shall be issued for the construction of any dwelling house upon a lot having a frontage of less than seventy-five (75) feet and an area of less than seven thousand five hundred (7,500) square feet; provided, however, that these limitations shall not apply to any lot having a frontage of less than seventy-five (75) feet and an area of less than seven thousand five hundred (7,500) square feet which is embraced in any subdivision of lots recorded prior to July 12, 1982.

(j) Corner lots. No permit shall be issued for the erection of more than one (1) dwelling house on any corner lot, as such lot may be embraced in any subdivision duly recorded prior to July 12, 1982, but this subsection shall not apply in the case of any lot containing six thousand five hundred (6,500) square feet or more, which shall have been created by a re-subdivision of any such corner lot duly authorized by the Maryland-National Capital Park and Planning Commission.

(k) Rear of house. No permit shall be issued for the construction of any dwelling house, the rear of which shall face upon any public street.

(l) New construction. The restrictions in subsections (2) through (5) below shall apply only to the construction of new houses on vacant lots and to construction subsequent to the substantial demolition of an existing main building.

(1) For the purposes of this subsection 8-16(l) the following definitions and rules apply.

A. The term "substantial demolition" shall mean the removal of fifty (50) percent or more of the area of exterior walls in existence as of June 16, 2008, measured by wall plane length and height.

B. In calculating the floor area ratio, the square footage of a lot shall include any land area severed from the lot by a conveyance to the Village, in fee simple, without monetary compensation.

(2) No permit shall be issued for construction which would result in floor area ratio in excess of .50. Notwithstanding the foregoing, for lots containing less than six thousand (6,000) square feet, buildings may contain gross floor area of three thousand (3,000) square feet.

(3) No permit shall be issued for construction which would result in gross floor area of greater than seven thousand five hundred (7,500) square feet, unless a Special Permit has been

obtained from the Board of Managers.

(4) For all buildings, the maximum side wall plate height within twelve (12) feet of a side lot line shall be twenty-one (21) feet.

(5) For all buildings, the side wall plane length shall not exceed forty (40) feet unless there is an offset, jog, or articulation in the side wall plane that measures at least two (2) feet in depth and five (5) feet in length.

(m) Lot coverage. The lot coverage on any residentially zoned lot shall not exceed thirty-five (35) percent.

(n) Main building height. None of the following restrictions may be exceeded.

(1) The height of a main building shall not exceed thirty-five (35) feet when measured to the highest point of the roof surface regardless of roof type.

(2) The height of a main building shall not exceed thirty (30) feet when measured to the mean height level between the eaves and ridge of a gable, hip, mansard or gambrel roof.

(3) The height of a main building shall not exceed thirty (30) feet when measured at the roof surface of a flat roof.

(o) Injury to trees. Unless a Special Permit has been obtained from the Board of Managers, no permit shall be issued for the construction of any improvement which may reasonably be expected to injure a tree:

(1) Of any size on an abutting or nearby property, unless the owner of such property grants written permission; or

(2) The removal of which is regulated by Chapter 17.

(p) Awnings and canopies. No awning, canopy or other protrusion shall be erected between the front building restriction line and the front lot line.

(9-13-93; No. 11-1-93, 11-22-93; No. 6-01-97, 7-14-97; No. 10-01-03, 10-13-03; No. 09-02-05, 09-12-05; No. 06-01-08, 06-16-08; No. 06-03-09, 07-13-09; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(5).

Sec. 8-17. Unsafe conditions during construction.

If the Village Manager determines that any activity requiring a Building Permit within the Village or any part thereof to be dangerous or to constitute a safety hazard, the Village Manager shall serve notice upon the owner of such property, or the owner's agent, and the occupant of such property. The Village Manager may request that the structure or any part thereof is not to be occupied and should be immediately vacated. This notice shall be in writing and shall be posted on the property and personally served upon the occupant and owner. If the Village Manager is unable personally to serve the occupant and the owner, service may be accomplished by posting the property and mailing a copy of the notice by certified mail to the property address and to such other address as the owner or the owner's agent has provided. The written notice shall set forth in detail the repairs necessary to remedy the dangerous condition of the structure. If the owner or occupant refuses or neglects to correct the dangerous condition within such reasonable time as the Village Manager may direct, then the owner and occupant shall be guilty of a municipal infraction and shall be subject to the penalties therefore.

(9-13-93; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(6).

Sec. 8-18. Demolition of buildings.

Any person intending to demolish, raze or tear down more than fifty (50) percent of the exterior features of an existing building, garage or accessory building within the Village must first obtain an administrative Special Permit pursuant to Sec. 8-11 for such demolition in order to ensure that such work will be carried out in such a manner that abutting property owners will not be adversely affected and that the interests of the Village in public health, safety and welfare are not jeopardized by such work.

(9-13-93; No. 11-1-93, 11-22-93; No. 04-01-14, 04-14-14.)

Sec. 8-19. Developmental nonconformities.

(a) Replacement and repair. A developmental nonconformity that is part of a structure or is attached to a structure may be replaced or repaired. A developmental nonconformity that is detached from a structure may be replaced or repaired only if such work involves less than fifty (50) percent of the nonconformity. A developmental nonconformity may not be expanded.

(b) Buildings existing prior to June 16, 2008. Notwithstanding any provision to the contrary contained in Sec. 8-16 or 8-20, a building or structure existing prior to June 16, 2008 that sustains a total physical loss or a substantial physical loss (fifty (50) percent or more) due to accidental causes including, but not limited to fire, storm, falling tree(s), flooding, natural disaster, acts of war or terrorism, may be rebuilt, provided:

(1) The replacement building or structure does not encroach farther into any setbacks than the building or structure that was lost,

(2) The footprint of the replacement building or structure is not larger than the previous footprint for the main building or structure, and

(3) The replacement building or structure does not exceed the building height of the building or structure that was lost.

(9-13-93; No. 06-01-08, 06-16-08; No. 04-01-14, 04-14-14.)

Sec. 8-20. Garages and accessory buildings.

(a) Rear yard coverage. No detached garage or other accessory building or structure shall be erected, except in the rear yard of any premises. The combined lot coverage of all accessory buildings shall not exceed twenty (20) percent of the rear yard.

(b) Rear and side setbacks. Any detached garage or other accessory building shall be located at least five (5) feet from any rear or side lot line or alley line.

(c) Increased setbacks. For any detached garage or other accessory building with a length along a rear or side lot line which has a linear dimension greater than twenty-four (24) feet, the minimum setback from that rear or side lot line shall be increased from the requirement in subsection (b) above at a ratio of two (2) feet for every one (1) foot that the dimension exceeds twenty-four (24) linear feet.

(d) Height. No person shall construct any detached garage or other accessory building, or make any material replacement, alteration or addition to any existing detached garage or other accessory building, which shall exceed one (1) story in height.

(1) The height of any detached garage or other accessory building, when measured from the average grade in front of the building to the highest point of the roof surface of a flat roof, shall not exceed twelve (12) feet.

(2) The height of any detached garage or other accessory building, when measured from the average grade in front of the building to the highest point of the roof surface regardless of roof type, shall not exceed sixteen (16) feet.

(e) Attachment of any garage or other accessory building to a dwelling house shall not be permitted unless the resulting building complies with all requirements of this Chapter for a main building, including the residential building construction prohibitions set forth in Sec. 8-16.

(9-13-93; No. 06-01-08, 06-16-08; No. 04-01-14, 04-14-14.)

Sec. 8-21 Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, hand rails and arbors.

(a) Location. No person shall install any tree trunk, hedge, shrubbery, fence, wall, lamp post or hand rail on private property within three (3) feet of a public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the private property, within six (6) feet of the curb, or if there is no public sidewalk and no curb, within six (6) feet of the nearest edge of the street or alley.

(b) Interference with traffic. No fence, wall, cheek wall, tree, hedge, shrubbery, lamp post or hand rail on private property shall be permitted to extend into public sidewalks, streets or alleys so as to interfere in any manner with pedestrians or vehicular traffic.

(c) Obstruction of view. No person shall install or maintain any fence, wall, tree, hedge, shrubbery, lamp post or hand rail on private property at or near any street intersection in such a manner or at such a height as to interfere with a clear and unobstructed view of approaching pedestrians or vehicular traffic.

(d) Fence and wall height in rear yard. No person shall construct any fence or wall at any location between the front building restriction line and the rear property line nor along any rear property line having a height greater than six and one-half (6 ½) feet. The measurement shall be made from the surface of the ground of the lower yard next to the fence or wall. With the written consent of the owner(s) of any adjoining property, a fence or wall of greater height than six and one-half (6 ½) feet at its highest point, may be erected or permitted if a Special Permit is obtained from the Board of Managers.

(e) Fence and wall height in front yard. No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

(f) Existing features. Notwithstanding subsection (a) above, any play equipment, fence, (except as provided in subsection (f) (6)), wall, tree, hedge or shrubbery existing on December 8, 2008, or any lamp post existing on April 14, 2014, may be maintained, repaired or replaced so that the maintained, repaired or replacement structure or growth:

(1) Is in the same location as the existing structure or growth;

(2) Does not encroach any farther into the public improvement setback than the existing structure or growth;

(3) Does not exceed the height of the existing structure or growth;

(4) Is of substantially similar material or species as the existing structure or growth; and

(5) Is installed or constructed within six (6) months of the removal of the existing structure or growth.

(6) In the event that a sidewalk, street or alley maintained by the Village or other public entity is installed adjacent to a fence after the permit which authorized the construction of the fence, or if it is determined by the Village Manager to be necessary for the public's health, safety or welfare, a replacement fence must comply with the setbacks required in subsection (a).

(g) Arbors. An arbor or trellis, of lattice or other open construction, shall be subject to the same setback and location requirements as a fence, provided it does not exceed three (3) feet in depth, five (5) feet in width, and eight and one-half (8 ½) feet in height when located in a front yard, or five (5) feet in depth, ten and one-half (10 ½) feet in width, and eight and one-half (8 ½) feet in height when located in a side or rear yard. An arbor that is not of open construction or that exceeds any of the foregoing dimensions shall be subject to the setback requirements for accessory structures.

(9-13-93; No. 11-1-93, 11-22-93; No. 10-03-08, 12-08-08; No. 10-04-08, 12-08-08; No. 02-04-10, 03-08-10; No. 04-01-14, 04-14-14; No. 11-03-14, 11-10-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(7).

Sec. 8-22. Antennae, air conditioners, heat pumps and generators.

(a) Size and location. An antenna may not extend more than six (6) feet above the highest point of the building to which it is attached.

(1) No antenna shall exceed one (1) meter in diameter without a Special Permit from the Board of Managers. In addition to any other requirements for a Special Permit, the Board of Managers shall not grant a Special Permit for an antenna under this Section unless it finds that the antenna will be located and screened so it is not visible from adjacent or public property.

(2) Free standing antennae are prohibited.

(b) Setbacks. No person may:

(1) Install an external air conditioner or heat pump within seven (7) feet of any side lot line or rear lot line or in the front yard of any property.

(2) Replace an external air conditioner or heat pump within five (5) feet of any side lot line or rear lot line or in the front yard of any property.

(3) Install or replace a generator within seven (7) feet of any side lot line or rear lot line or in the front yard of any property.

All external air conditioners, heat pumps and generators must comply with County and Village noise regulations.(see Sec. 8-11(b)(3)).

(9-13-93; No. 11-1-93, 11-22-93; No. 9-01-99, 9-13-99; No. 04-01-14, 04-14-14.)

Sec. 8-23. Tennis courts.

(a) Setbacks. A tennis court must be set back at least fifteen (15) feet from the front building restriction line of the property or from the main building line, whichever is greater. No tennis court shall be constructed within twenty-five (25) feet of any side or rear lot line. All measurements shall be made from the outermost portion of the court, including the fencing. Property shall include all lots under common ownership.

(b) Enclosure. Every tennis court or the property on which such tennis court is situated shall be surrounded by a fence or wall or equivalent enclosure of not less than six and one-half (6½) feet in height.

(9-13-93; No. 11-1-93, 11-22-93; No. 9-01-99, 9-13-99; No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(8).

Sec. 8-24. Swimming pools and outdoor therapeutic baths.

(a) Setbacks. Any swimming pool or therapeutic bath shall be located as follows:

(1) A swimming pool must be set back at least fifteen (15) feet from the front building restriction line of the property or from the front main building line, whichever is greater.

(2) No swimming pool shall be placed within fifteen (15) feet of any side or rear lot line. Such measurement shall be made from the inside wall of the swimming pool.

(3) No apron, deck or diving board shall be placed within ten (10) feet of any side or rear lot line.

(4) No pump, filter or other accessory shall be constructed or installed within seven (7) feet of any side or rear lot lines without a Special Permit from the Board of Managers.

(b) Enclosure of pools. Any swimming pool or the property upon which a swimming pool is situated shall be surrounded by a fence or wall or equivalent enclosure not less than sixty (60) inches in height above grade at the exterior of the fence, which shall be so constructed as not to be easily climbed or penetrated. Gates and/or doors to any such enclosure shall comply in all respects with County regulations pertaining to swimming pool enclosures, and shall be maintained in good condition. A dwelling house or accessory building may be used as part of such enclosure.

(c) Screening of therapeutic baths. An outdoor therapeutic bath shall be screened from neighbors by fencing, planting, or otherwise, so as to provide privacy to users thereof and not to impinge on the privacy of the neighbors.

(d) Protective cover. A therapeutic bath shall be equipped with a protective cover that shall be secured in place covering any such bath or pool and shall be locked so as to prevent access when the bath is not in use. The protective cover shall be made of any fabric, plastic, rubber, metal or net capable of covering the entire therapeutic bath or portable swimming pool surface and, when in use, be able to be firmly secured or anchored and capable of supporting a minimum of two hundred fifty (250) pounds.

(e) Lighting. Lights used to illuminate any swimming pool or therapeutic bath and/or any areas adjacent to any swimming pool or therapeutic bath shall be so arranged and shaded so as to reflect light away from neighboring property, and shall be maintained and operated in such a manner as not to be a nuisance or annoyance to any neighboring property. In no event shall any such lights be on after midnight.

(f) Equipment. Any diving board, slide or other equipment used in or around any pool shall be constructed, affixed, designed, fastened or snubbed as to minimize unnecessary noise resulting from the use or operation of such diving board, slide or other equipment (see Chapter 20).

(g) Existing pools and therapeutic baths. Any swimming pool or therapeutic bath which was lawful when constructed may be continued, provided the swimming pool or therapeutic bath is operated and maintained in accordance with all requirements of this Chapter with the exception of subsection (b) above if, in the discretion of the Village Manager, the existing pool is surrounded by natural planting which is equivalent to a fence or wall inasmuch as the natural planting in question cannot be easily climbed or penetrated.

(h) Portable swimming pools. Every portable swimming pool shall be stored in a safe place or condition when not in actual use.

(i) Runoff and drainage. Any swimming pool, portable swimming pool or outdoor therapeutic bath within the Village shall be maintained so that pool water does not collect, seep, overflow, splash or run onto or across abutting property or onto the public right-of-way. Intentional drainage of swimming pools must ensure that such drainage flows into a storm-water drain.

(9-13-93; No. 11-1-93, 11-22-93, No. 04-01-14, 04-14-14.)

Cross reference(s)—Fine for violation of this Section, Sec. 6-3(a)(9).

Sec. 8-25. Alteration of water flow or drainage.

(a) Permit required. Any person intending to perform grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, or the installation of any downspout

or drain which, in the opinion of the Village Manager, could alter the existing or natural flow of water in such a way that it may reasonably be expected to cause such water or drainage to flow onto abutting property or onto the public right-of-way, must obtain a Building Permit therefore from the Village Manager. No permit will be issued for activity that allows water to flow onto another private property.

(b) Adverse effect. No grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, or the installation of any downspout or drain which will alter the flow of water or drainage so as to have an adverse effect on abutting or nearby properties or on the public right-of-way shall be approved by the Village Manager.

(c) Conditions. The Village Manager may issue a Building Permit for grading or construction of impermeable surfaces, such as patios, driveways, walkways or terraces or other paving, which will alter the flow of water or drainage, upon such terms or conditions as the Village Manager deems necessary to avoid adverse effects upon abutting or nearby properties or onto the public right-of-way.

(9-13-93; No. 04-01-14, 04-14-14.)

Sec. 8-26. Driveways.

Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

(9-13-93; No. 11-1-93, 11-22-93; No. 04-01-14, 04-14-14.)

Sec. 8-27. Reserved.

Previous Board Book Materials

April 11, 2016 Board Meeting

CHEVY CHASE VILLAGE
ESTABLISHED 1890

March 31, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

Dear Mr. & Mrs. Maloni:

Please note that the continuance of your request for a variance to maintain the structure that was constructed in the Grafton Street front yard of your property is scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a decision for Board approval and signature by the Board secretary, following which the applicable Building Permit may be issued. No further work may be performed on the construction until all applicable permits are obtained.

For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
MICHAEL L. DENGER, *Chair*
ELISSA A. LEONARD, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

March 16, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Variance Case No. 6887-continued

Dear Mr. & Mrs. Maloni:

As you are aware, during its meeting on March 14, 2016, the Chevy Chase Village Board of Managers considered your variance request to maintain the structure installed on your property forward of the front (Grafton Street) building restriction line. The Board has continued your case, which will be rescheduled for reconsideration during the Board's April 11 regular meeting.

Your case was continued to allow you to gather additional information in support of your application and to present the assertions that were made during the hearing in a written format that can be reviewed by Village staff and Counsel in advance of the notice deadline for the next hearing. Pursuant to the Board's instruction, any additional materials you would like to enter into the record must be submitted to our office by 5:00 p.m. on Friday, March 25.

You or a representative must be present at the April 11 hearing to present your case. The meeting will begin at 7:30 p.m.

Please contact me directly at (301) 654-7300 or ccvpermitting@montgomerycountymd.gov if you have any questions.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
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BOARD OF MANAGERS
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MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

February 9, 2016

Mr. & Mrs. William Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Variance Case No. 6887

Dear Mr. & Mrs. Maloni:

As you are aware, during its meeting on February 8, 2016, the Chevy Chase Village Board of Managers considered your variance request to maintain the structure installed in the Grafton Street public right-of-way in front of your property. Pursuant to your request, the Board has continued consideration of your case, for consideration at the Board's March 14 regular meeting. Your case was continued to allow you to gather additional information in support of your application.

Any revised plan, along with any additional materials you would like to enter into the record, must be finalized and submitted to our office by 5:00 p.m. on February 22, which is the filing deadline for the Board's March 14 meeting agenda. You or a representative must be present at this hearing to present your case. The meeting will begin at 7:30 p.m.

Please contact me directly at (301) 654-7300 or ccvpermitting@montgomerycountymd.gov if you have any questions.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

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5906 Connecticut Avenue
Chevy Chase, Maryland 20815
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BOARD OF MANAGERS
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GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
ELISSA A. LEONARD, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK
LEGAL COUNSEL
SUELLEN M. FERGUSON

A-6887 -continued
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
MARCH 14, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 3/10/2016

SUBJECT: HEARING OF CASE NO. A-6887- CONTINUED- VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

This case is being continued from the February 8 monthly meeting. At this time no additional materials have been provided, however the Applicants have advised staff that they will have materials for consideration at the March 14 meeting.

The resident indicated in the variance application that the structure is a "Wysteria arbor". Arbors in a front yard are limited to a length and width of three (3) feet by five (5) feet and a height not to exceed eight and one-half (8 ½) feet (3' x 5' x 8½'). The Code states that if any of these measurements is exceeded then the setback requirements for structures shall apply.

The structure as installed exceeds these limits (it measures 4.2' x 15' x 7.3') and it is therefore classified as a "structure" for the purposes of the Code, which restricts structures forward of the twenty-five (25) foot front building resection line.

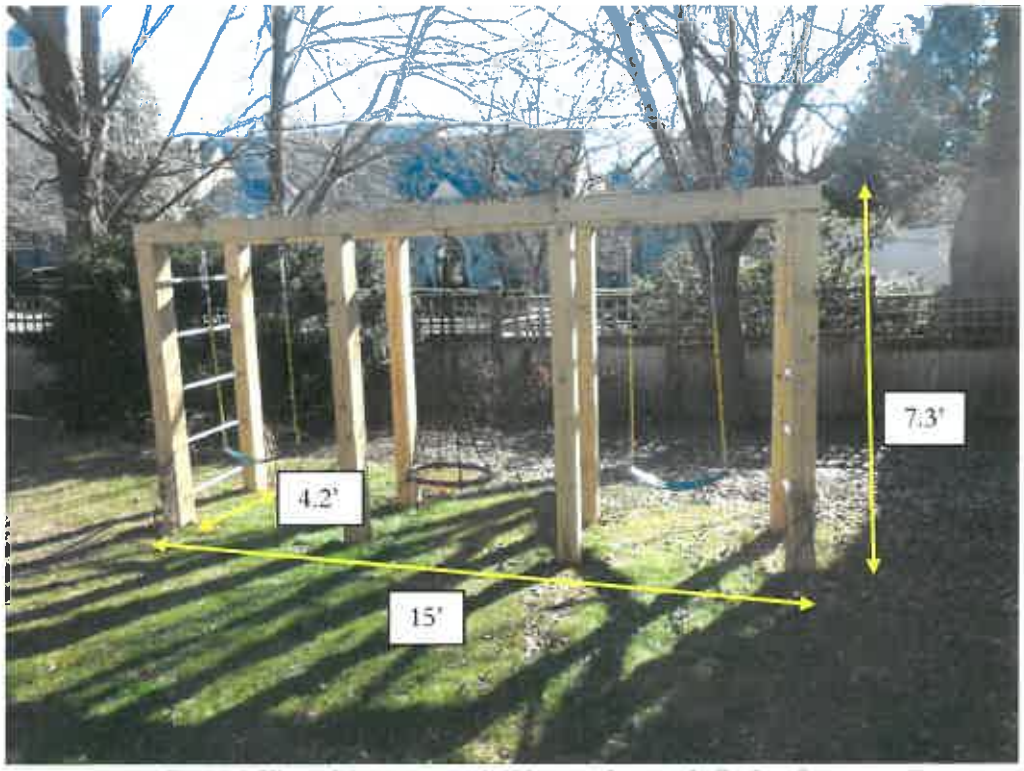

Figure 1: View of the structure, looking south towards Grafton Street.

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date there has been one letter received from the confronting neighbor on Magnolia Parkway in support of maintaining the structure and none received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

There are few precedents related to this type of structure being located forward of the front building restriction line and detached from the dwelling, whether play equipment or arbors. For structures not attached to the dwelling, there are precedents for items of safety, such as handrails and lampposts; and variances for fences and walls (either height or proximity to public sidewalks). Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to reference "permanently anchored play equipment" so that portable basketball hoops, trampolines, swings etc. would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

The Code provision establishing the allowable parameters for arbors was enacted in 2009 following a variance request regarding installation of an arbor in the front yard of 5802 Kirkside Drive.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 14th day of March, 2016 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-6887-CONTINUED
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 3rd day of March, 2016.

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

(49)

A-6887
Variance Request

Maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Mr. William Robert Maloni &
Ms. Heidi Wynn Maloni
Trustees under the
William Robert Maloni Living Trust
5 Chevy Chase Circle

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
FEBRUARY 8, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 2/4/2016

SUBJECT: HEARING OF CASE NO. A-6887 VARIANCE REQUEST
MS. HEIDI WYNN MALONI & MR. WILLIAM ROBERT MALONI; 5 CHEVY CHASE CIRCLE
MAINTAIN A STRUCTURE WHICH WAS INSTALLED IN THE FRONT YARD OF THE PROPERTY AND WHICH ENCROACHES NINETEEN FEET, SIX INCHES (19'-6") FORWARD OF THE TWENTY-FIVE (25) FRONT (GRAFTON STREET) BUILDING RESTRICTION LINE.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-16 (c) states:
No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

APPLICABLE COVENANTS:

"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."

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side of Chevy Chase Circle and is fronted by three streets (Chevy Chase Circle, Magnolia Parkway and Grafton Street); thus the three yards fronting these streets are considered "front" yards for the purposes of the Building Code and the applicable setbacks for front yards. The property is located in the CCV Historic District. The Applicants will need to obtain approval from the Historic Preservation Commission (HPC) for the built structure.

Per Sec. 8-16 (c) of the Village Code, a Chevy Chase Village Building Permit is required for the installation of any structure in the front yard on private property.

Structure: An assembly of materials forming a construction including, but not limited to, buildings, accessory buildings, open sheds, shelters, tennis courts, antennae, air conditioners, generators, heat pumps, swimming pools, therapeutic baths and permanently anchored play equipment, but not including walkways, patios, or driveways.

The structure was erected without the applicable Chevy Chase Village Building Permit. The location of the structure is nineteen feet, six inches (19'-6") forward of the front twenty-five (25) foot front building restriction line and thus its location constitutes a violation of the Village Code. Staff observed the structure from the Grafton Street public right-of-way and contacted the resident.

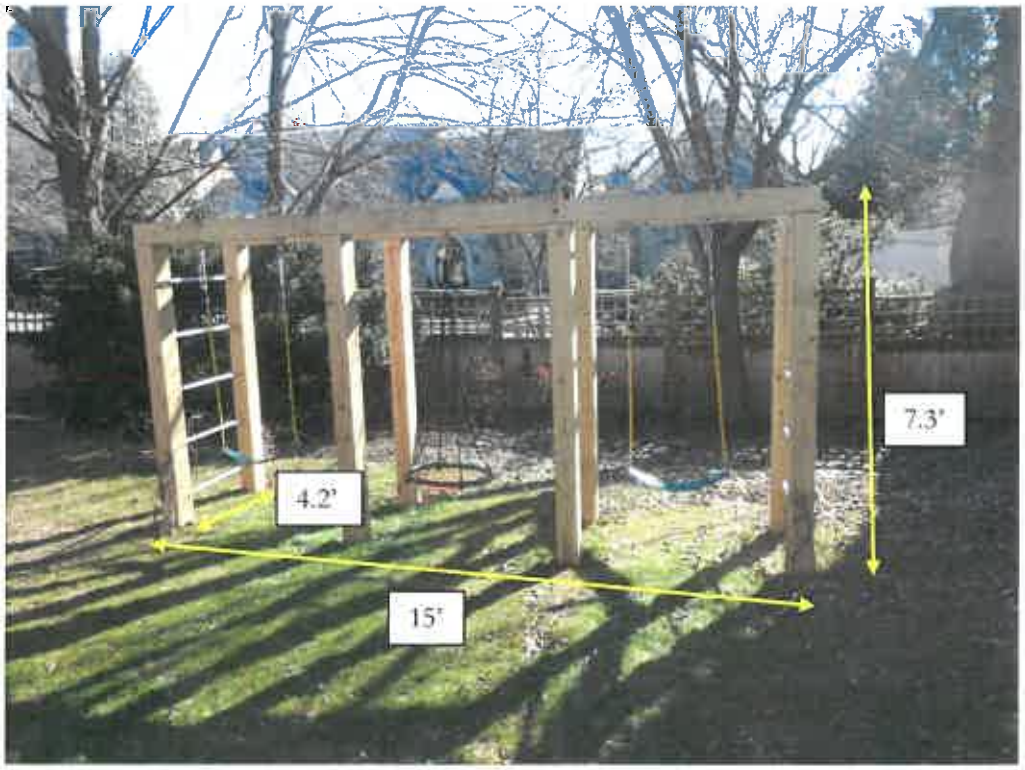

Figure 1: View of the structure, looking south towards Grafton Street.

The resident indicated in the variance application that the structure is a "Wysteria arbor". Arbors in a front yard are limited to a length and width of three (3) feet by five (5) feet and a height not to exceed eight and one-half (8 ½) feet (3' x 5' x 8½'). The Code states that if any of these measurements is exceeded then the setback requirements for structures shall apply.

The structure as installed exceeds these limits (it measures 4.2' x 15' x 7.3') and it is therefore classified as a "structure" for the purposes of the Code, which restricts structures forward of the twenty-five (25) foot front building resection line..

The covenants applicable to the property prohibit the erection of structures of any description forward of the twenty-five (25) foot front building restriction line, hence the structure constitutes a violation of the covenants.

To date there has been one letter received from the confronting neighbor on Magnolia Parkway in support of maintaining the structure and none received in opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

The Code provision establishing the allowable parameters for arbors was enacted in 2009.

There are few precedents related to this type of structure being located forward of the front building restriction line and detached from the dwelling, whether play equipment or arbors. Other cases exist for stoops, steps and porticos attached to the main dwelling. For structures not attached to the dwelling, there are precedents for items of safety, such as handrails and lampposts; and variances for fences and walls. Prior to the Building Code revision of 2014, "play equipment" was excluded from the definition of "structure" but was included as being subject to the twenty-five (25) foot front building line restriction. That was modified to reference "permanently anchored play equipment" so that portable basketball hoops, trampolines, swings etc. would not require a variance for placement in the front yard.

In October 2015 Mr. and Ms. Devin Talbott were **denied** a variance to maintain a basketball hoop which had been installed in the front yard of the property forward of the twenty-five foot front BRL and which violated the covenants applicable to the property. The applicants were directed to remove the basketball hoop. In 2002 Mr. & Mrs. Bradford May of 5801 Kirkside Drive were granted a variance to install a play set forward of the twenty-five (25) foot Oliver Street (front) building restriction line. The property is a corner lot and hence has two front yards. The Applicants contended that owing to the location of the house on the property and the space requirements of the swing set, the only possible location for the equipment was in the "front" yard. Additionally, the proposed location of the equipment satisfied the twenty (20) foot setback stipulated on the plat of the property, but not the twenty-five (25) foot setback in the enumerated covenants applicable to the property. In 1989, an application by Mr. & Mrs. Thomas Leachman of 103 Newlands Street to install a "playhouse" forward of the twenty-five (25) foot front (Brookville Road) yard setback was withdrawn.

FINDINGS REQUIRED:

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.

Draft Motion

I move to APPROVE/DENY the variance request in Case A-6887 on the basis that the evidence presented, including the Staff Report, 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 request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 8th day of February, 2016 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-6887
MR. WILLIAM ROBERT MALONI & MS. HEIDI WYNN MALONI
TRUSTEES UNDER THE ROBERT MALONI LIVING TRUST
5 CHEVY CHASE CIRCLE
CHEVY CHASE, MARYLAND 20815

The applicants seek a variance from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a structure which was installed in the front yard of the property and which encroaches nineteen feet, six inches (19'-6") forward of the twenty-five (25) front (Grafton Street) building restriction line.

Sec. 8-16. Residential building construction prohibitions.

(c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot…

Additional information regarding this appeal 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 or you may contact the office for this information to be mailed to you.

This notice was mailed (and emailed where possible) and to abutting and confronting property owners on the 29th day of January, 2016.

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

Initial Application Form

April 11, 2016 Board Meeting

Chevy Chase Village

Building Permit Application

Permit No: 6887

Property Address:
5 Chevy Chase Circle

Resident Name:

Daytime telephone: 3019513375 Cell phone: 3014049790

After-hours telephone: "

E-mail: heidi.maloni@va.gov

Project Description: wisteria arbor with three hanging swing

☐ Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. (*required*):

Information for Primary Contact for Project (if different from property owner):

Name: Heidi MAloni

Work telephone: 301 404-9790 After-hours telephone: cell

Cell phone: "

E-mail: heidi.maloni@va.gov

Will the residence be occupied during the construction project? ☒ Yes ☐ No

If no, provide contact information for the party responsible for the construction site (if different from above):

Name:

Address:

Work telephone: After-hours telephone:

Cell phone:

E-mail:

Parking Compliance:

Is adequate on-site parking available for the construction crews? ☒ Yes ☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons? ☐ Yes ☒ No

Building Permit Filing Requirements:

Application will not be reviewed until the application is complete

- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☐ This application form, signed by resident.
- ☐ Boundary Survey
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: Heidi Malloni **Date:** 01-08-16

To be completed by Village staff:

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: GB

Date application filed with Village: 1/11/16 Date permit issued: _____ Expiration date: _____

(12)

For Use By Village Manager	Application approved with the following conditions:

For Use By Village Manager	Application denied for the following reasons:
DENIED JAN 26 2016 Chevy Chase Village Manager	Denied for the built structure is located within the front yard setback for the Grafton St. frontage

Filing Fees (due when application submitted)	**Checks Payable to:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
Permit Application Fee: $ 30.00 (see Permit Fee Worksheet) ☐ $50.00 (if construction is in the Public Right-of-way)	
Tree Preservation Plan Fee: ☐ $250.00 ☑ Not required for this project.	
TOTAL Fees: $ 30.00 Check # 4095	Date: 1/11/16 Staff Signature:

Damage Deposit/Performance Bond (due when permit is issued)	**Checks Payable to:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

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:	5 Chevy Chase Circle
Describe the Proposed Project:	Wisteria Arbor
Applicant Name(s) (List all property owners):	Heidi and William Maloni
Daytime telephone:	301 951 3375 Cell: 301 404 9790
E-mail:	heidi.maloni@va.gov
Address (if different from property address):	
For Village staff use: Date this form received:	1/11/16 Variance No: A-6881

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: Heidi Maloni Date: 01-08-2016

Applicant's Signature: W R Maloni Date: 1-11-16

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:

Property has an odd shape. Three of four sides are designated "front yard" by a 107 year old Covenant requiring any structure be placed 25' from front yard. Current wisteria arbor is 18' from fence line. #5 Cul de Circle is unusual compared to other Village homes. On said property there is no logical space to place the structure as the only non-street facing space has a pool and/or even trees. The current arbor offers a pleasing landscape and contributes to green space and oxygen consumption.

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):

The 1909 covenant represents an unusual condition for this residence in comparison to other residences and thereby is unjust. A hardship is recognized as this covenant limits property use for landscape design and utilization. The wisteria arbor mimics a similar arbor in the village

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*:

The wisteria arbor sits 18' from fence line - assuming this is the property line. The arbor is intended to beautify the property adding live plants to environment

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

Variance Filing Fee	**Checks Payable To:** Chevy Chase Village, 5906 Connecticut Ave., Chevy Chase, MD 20815
Per Village Code Sec. 6-2(a)(24): ☒ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. ☐ Other: $_____ check # 4095 **Fee Paid:** #300.00	**Date Paid:** 1/11/16 **Staff Signature:** Ellen Sands
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** _____ **Village Manager** **Date:** _____

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PROPOSED GARAGE INSET
LE 1"=10'

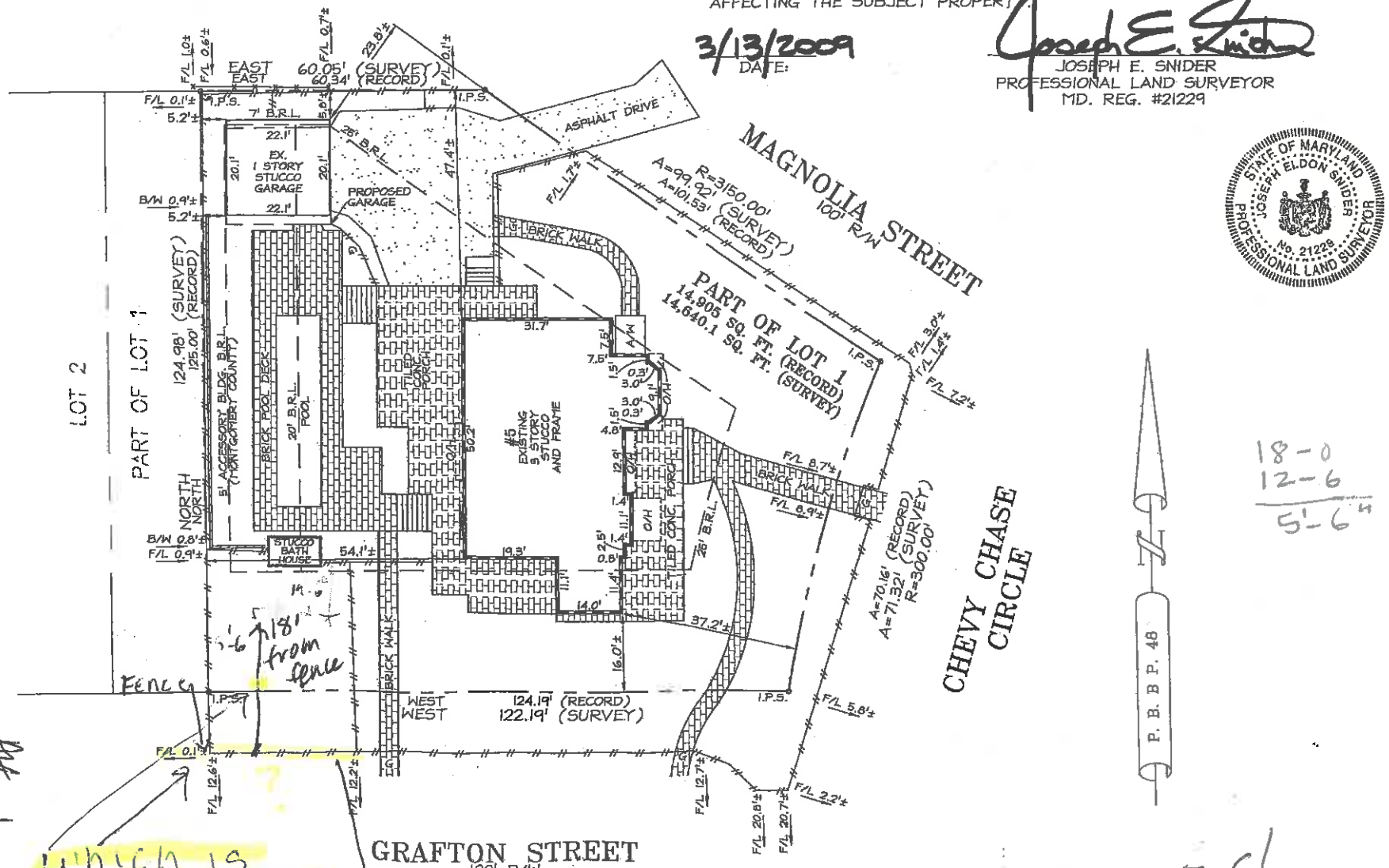
SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE IN . IATION SHOWN HEREON H. BEEN BASED UPON AN ACTUAL FIELD SURVEY, PERFORMED BY ACCEPTED METHODS, PURSUANT TO THE PLAT OF RECORD. PROPERTY CORNER MARKERS HAVE BEEN RECOVERED OR PLACED AND VERIFIED TO BE IN RELATIVE AGREEMENT WITH THE RECORD INFORMATION AS SHOWN. THE INFORMATION SHOWN HAS BEEN DERIVED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT SHOW ALL EASEMENTS OR ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3/13/2009
DATE:

JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,



18-0
12-6
5'-6"

BE'
M

Fence

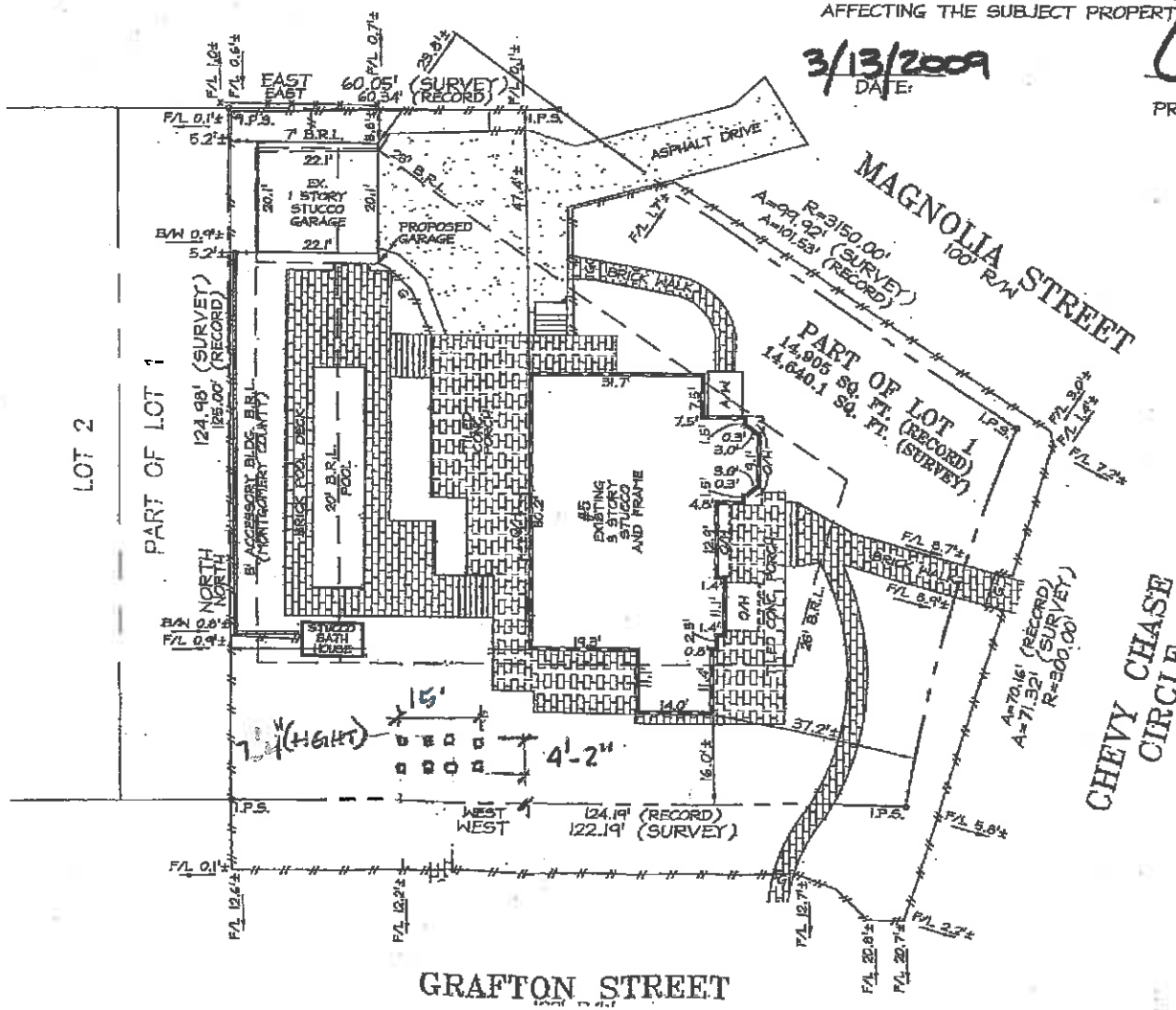
5'-6" 18' from fence

Art 1

which is property line?

If this is property line we have 25'

PROPOSED GARAGE INSET
SCALE 1"=10'



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3/13/2009
DATE:

Joseph E. Snider
JOSEPH E. SNIDER
PROFESSIONAL LAND SURVEYOR
MD. REG. #21229

STATE OF MARYLAND
JOSEPH ELDON SNIDER
No. 21229
PROFESSIONAL LAND SURVEYOR

8. PREMISE ADI
#5 CHEVY CHAS
CHEVY CHASE,

BE'
M

Letters from Abutting Neighbors

Board of Managers
Chevy Chase Village

January 30, 2016

RE: 5 Chevy Chase Circle, Appeal # A-6887

Dear Board of Managers:

I am writing to you on behalf of my neighbors, Heidi and Bill Maloni.

We have no issue with the wisteria arbor and in fact, consider it a green "structure" that adds in a positive way to the neighborhood's landscape and character.

It has been in its present form since last May and from what I know, there has never been any complaints or issue with its placement.

The Maloni's lot is on the Circle and given the lot's irregular shape and the inability to really determine the front yard from the side yard, I can understand fully why the arbor was placed where it is. And only when the leaves from the surrounding shrubbery are absent, is it even visible from curbside.

Set-back restrictions are vital to prevent permanent structures from encroaching on a public space but given that we talking about a temporary structure for a beautiful wisteria, I will vote in favor of the wisteria each and every time.

Thank you for your time and consideration and serving the Village as you do.

Sincerely,

Ruth Robbins
3 Magnolia Parkway

katymeredith@verizon.net

From: "Heather Cass" <hcass@cassassoc.com>
Date: Monday, March 14, 2016 5:37 PM
To: <ccv@montgomerycountymd.gov>
Cc: <katymeredith@verizon.net>
Subject: Maloni Variance Request - Attn Ms. Ellen Sand

Dear Ellen,

Please add our names to the list of neighbors in support of the Maloni family request for a variance to keep their swing set. It is well built and attractive and — while it may be in a location that is technically the "front yard" — appears to be in an appropriate place on the lot.

Thank you for your consideration.

Best regards,

Heather Cass
Dick Cass

No virus found in this message.
Checked by AVG -
Version: 2015.0.6189 / Virus Database: 4542/11815 - Release Date: 03/14/16

Sands, Ellen

From: katymeredith@verizon.net
Sent: Monday, March 14, 2016 2:40 PM
To: CCV Permitting; burtbraverman@dwt.com; billmaloni@aol.com
Subject: Maloni variance

Chevy Chase Village Board of Managers:

We fully support Heidi and Bill Maloni in their variance request regarding the arbor/swing set in the back/side yard facing Grafton Street, and we strongly urge the BOM to grant their request for variance.

We have observed the swing set and find it to be perfectly agreeable in the setting and the surroundings. It is attractive and barely even noticeable. In fact, we had to get up close to the fence just to see it and try to understand the problem; one is not even aware of it while driving down Grafton Street.

I understand from my conversation this afternoon with Ellen Sands that there is a "covenant" that describes #5 Chevy Chase Circle as having three front lots. There is only one front of the house. There are no doors on that side of the house. They do not have a Grafton Street address; neither do they enter or exit from that "SIDE" of the house. It is, in fact, the SIDE & REAR of the house. Perhaps steps should be taken to re-write the description so as not to penalize loving grandparents who built a very nice, stable, and safe play set for their grandchildren.

Sincerely,

Burt Braverman
Kathleen Meredith
2 Magnolia Parkway
Chevy Chase, MD 20815

KATHLEEN MEREDITH
301 654 4274
202 368 7169 (mobile)
katymeredith@verizon.net

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ALL SAINTS CHURCH

THE REV. EDWARD T. KELAHER
RECTOR

March 10, 2016

Ms. Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, Maryland 20815

Re: Maloni Residence, 5 Chevy Chase Circle

Dear Ms. Sands,

I am writing with respect to the possible allowance of the arbor or play structure on the Maloni property at 5 Chevy Chase Circle. If there is someone else who should receive this letter, or to whom it might be distributed, I would ask your kind help in passing it along appropriately. Thank you if you will.

As a neighboring property to the Maloni residence, All Saints Church would be in favor of allowing the arbor/play structure to remain in its current form. It does not trouble or offend us in the least, presents no unfavorable appearance, and seems most common and reasonable for its purposes and location. As a good neighbor, we would be glad to see the Maloni family favorably considered by our Village authorities. We would be grateful for your flexibility and judicious approach in this regard.

Finally, it would please me to thank you and all other employees of our Village government for the dedication, care and professionalism you provide for all of us. You have the encouragement, support and appreciation of our parish and we stand ready to help you if ever the occasion should arise.

Sincerely,

Edward T. Kelaher, Rector

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3 Chevy Chase Circle Chevy Chase, MD 20815 (301) 654-2488 ext. 225 edkelaher@aol.com www.allsaintschurch.net

Enforcement Correspondence

CHEVY CHASE VILLAGE
ESTABLISHED 1890

January 6, 2016

Mr. William R. Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

RE: Code Enforcement Violation—Unpermitted Play Equipment
Located Forward of the Front (Grafton Street) Building Restriction Line

Dear Mr. Maloni:

I am following up on my previous letter to you dated December 8, 2015 regarding the play equipment which was installed in the Grafton Street front yard of your property without having obtained the applicable building permits from Chevy Chase Village and Montgomery County.

As I stated in my previous letter to you (a copy of which is enclosed), a variance from the Board of Managers is required in order for you to maintain the structure. The deadline to file an application to have the case heard at the Board of Managers' January 11, 2016 regular meeting has passed and we have not received your completed application nor have we had any communication from you regarding the status of the structure.

The deadline to submit an application for a variance to be heard by the Board at its February 8 regular meeting is Tuesday, January 19. If you are not going to proceed with the variance application, the structure must be removed in order to avoid further enforcement action. Please contact me as soon as possible to discuss your intentions. If we do not receive an application for a variance or confirmation that the structure has been removed by January 19, we will proceed with enforcement action.

Thank you for your prompt attention to this matter,

Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
MICHAEL L. DENGER, *Chair*
PATRICIA S. BAPTISTE, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
ELISSA A. LEONARD, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

CHEVY CHASE VILLAGE
ESTABLISHED 1890

December 8, 2015

Mr. William R. Maloni
5 Chevy Chase Circle
Chevy Chase, MD 20815

Dear Mr. Maloni:
Thank you for coming in last week to discuss the play equipment which was installed in the Grafton Street front yard of your property without the applicable Chevy Chase Village Building Permit having been obtained.

As we discussed, per Sec. 8-16 of the Village Code, no structure, including play equipment, may be installed in the front yard (defined as the area located between the front lot line and the front main building line or, in cases where no building exists, the front building restriction line) of any property:

> **Sec. 8-16. Residential building construction prohibitions.**
> (c) Front setback. No structure of any description shall be erected within twenty-five (25) feet of the front lot line of any lot...

The Code does allow applicants who have been denied a Building Permit to request a variance from the Board of Managers. Enclosed are the materials you will need to submit in order to have the case heard by the Board at its January 11, 2016 regular meeting. The submission deadline for this meeting is 5:00 p.m. on Monday, December 21, 2015.

Before you take the time to prepare the application materials, however, I wanted to bring to your attention the findings required by the Board in order to approve a variance. According to Sec. 8-9 of the Code:

> (c) Variances. To hear and decide any application for a variance from the requirements of this Chapter. Such a variance may be granted by the Board of Managers only if it finds that:
>
> (1) The proposed variance is required because special conditions exist whereby the enforcement of the requirements of this Chapter would result in unwarranted hardship and injustice to the owner.
> (2) The proposed variance would most nearly accomplish the intents and

CHEVY CHASE VILLAGE
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ELISSA A. LEONARD, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

purposes of the requirements of this Chapter; and
(3) For all variances the structure authorized by the proposed variance would not violate any covenant applicable to the property.

I have reviewed the covenants for your property, which were on file from a previous appeal related to your property. The covenants expressly state:

> "...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".

The Board historically holds a very firm stance regarding the covenants. Recently, the Board denied a variance request filed by an applicant who sought to maintain a freestanding basketball hoop which had been installed—without the applicable Building Permit—forward of the front building restriction line and within the covenant setback. In turn, the Board required that the Applicant remove the basketball hoop within a stated timeframe.

Although under the Village's Building Code you are free to proceed with the variance application, I wanted to make you aware of this recent similar case before you submitted the application and fees.

Because your property is located in the Chevy Chase Village Historic District, which is regulated by Montgomery County's Historic Preservation Commission (HPC), the installation of play equipment does require a Historic Area Work Permit (HAWP), so if you wish to maintain the equipment you could start that application process while you are applying for the Village variance.

Please contact me if you have any questions.

Sincerely,

Ellen Sands
Permitting & Code Enforcement Coordinator
Chevy Chase Village

Enclosures

Chevy Chase Village

Website Posting Notice
for Appeal, Special Permit & Variance Hearings

Case Number: A- 6887

Hearing Date: February 8, 2016

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Heidi Maloni

Address: 5 Chevy Chase Circle

Telephone: 301 404 9790

E-mail: heidi.maloni@va.gov

Applicant/Appellant Signature: Heidi Maloni

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: SB Date: 1/11/16

Covenants

April 11, 2016 Board Meeting

State of Maryland, County of Montgomery, ss:

I hereby certify that on this sixteenth day of June in the year 1909, before me the subscriber, a Notary Public in and for said County, duly commissioned and qualified, personally appeared Wilmer G.Platt, Mayor of the Town of Takoma Park, Maryland, and did acknowledge the aforegoing deed to be the act of said Town or Takoma Park, Maryland.

In Testimony Whereof, I have hereunto set my hand and affixed my seal this 16th day of June, 1909.

H.Edson Rogers.

H.Edson Rogers
Notary Public
Montgomery
Co.Md.

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At the request of Charles D.Cugle and Jessie Owen Cugle the following Deed was recorded May 7th A.D.1909 at 1.30 o'clock P.M., to wit.

THIS DEED, Made this 29th day of April in the year one thousand nine hundred and nine 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 Charles D.Cugle and Jessie Owen Cugle, his wife, of the City of Baltimore, State of Maryland, parties of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of fifty three hundred and sixty-five and 44/100 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:

All of Lot numbered one (1), except the West twenty (20) feet front on Grafton Street by the full depth of said lot numbered one (1) in Block numbered twenty five (25) Section Two, of the Subdivision made by The Chevy Chase Land Company, of Montgomery County, Maryland, as per plat of said subdivision recorded in Liber J.A. No.36, folio 61, of the Land Records of said Montgomery County, Maryland.

To Have and To Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part, as tenants by the entirety, the survivor of them, their heirs and assigns, and the heirs and assigns of the survivor, in fee simple.

In Consideration of the execution of this Deed, the said parties of the second part for themselves and for each of them, for their and for each of 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 five thousand (5,000) dollars.

4. That any house erected on said premises shall be designed 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) ted 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 J.Stallwagen, its Vice President, attested by Herbert Claude its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Harold E.Doyle, its true and lawful attoryen 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.

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

THE CHEVY CHASE LAND COMPANY, OF MONTGOMERY COUNTY, MARYLAND,

By:- Edward J.Stallwagen,

Vice President.

Attest.

Herbert Claude

Secretary.

District of Columbia, to wit:-

I, Albert W.Siouese, a Notary Public in and for the said District of Columbia, do hereby certify that Harold E.Doyle, who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed deed, dated the 29th day of April 1909, to acknowledge the same, personally appeared before me in the said District of Columbia, and as Attorney in fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

Given under my hand and seal this 29th day of April A.D.1909.

A-6888
Special Permit Request

Maintain a wall which was constructed in the Cedar Parkway public right-of-way and which is located ten (10) inches from the public sidewalk.

Mr. John J. Campanella and
Ms. Kathleen M. Campanella
5910 Cedar Parkway

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6888 (SPECIAL PERMIT REQUEST)
MS. KATHLEEN M. CAMPANELLA & MR. JOHN J. CAMPANELLA; 5910 CEDAR PARKWAY
MAINTAIN A WALL WHICH WAS CONSTRUCTED IN THE CEDAR PARKWAY PUBLIC RIGHT-OF-WAY AND WHICH IS LOCATED TEN (10) INCHES FROM THE PUBLIC SIDEWALK.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

Sec. 25-6 (a) states:
No structures, fence, wall, lamp post, hand rails, tree, hedge or shrubbery or any other growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use without the property owner first having obtained a license and having signed a right-of-way license agreement, in addition to any required building or Special Permit. Such agreement may be recorded in the county land records at the abutting property owner's expense. For the purposes of this Section, masonry piers and pillars shall be considered to be walls.

Sec. 25-6 (2) states:
All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

Sec. 25-6 (c) states:
Except as provided in Sec. 25-6 (b), no structures, fence, wall, lamp post, hand rail, tree, hedge or shrubbery, or any other growth shall be permitted on public property devoted to private use without a Special Permit from the Board of Managers.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for Special Permit requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side Cedar Parkway and is located in the CCV Historic District. The Applicants have not yet obtained approval from the Historic Preservation Commission (HPC) for maintaining the wall (they are on the April 13 HPC agenda).

The Applicants state that they are replacing a previous wall in the same proximity to the sidewalk (see their written statement and page 9 of the Board materials).

Figure 1: View of the wall looking west. The driveway and apron have not been completed, however once they are the distance from the wall to the public sidewalk (indicated by the yellow dashed line) would be ten (10) inches if the request to maintain the wall is granted.

To date no letters have been received either in support of or opposition to the request.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES:

Note: Prior to 1999, installation of any structure in the public right-of-way required approval from the Board of Managers. Since 1999, exceptions have been made for some structures (fences, walls, lamp posts etc.) with regulations regarding height and location. The most comparable cases are:

In 2004 Mr. & Mrs. Clarke Camper of 6 Primrose Street were granted a Special Permit to extend a retaining wall alongside the public sidewalk in front of their property. In June 2012 Mr. & Mrs. Jeffrey Shuren of 108 Hesketh Street were granted a Special Permit to construct a new pair of cheekwalls alongside reconstructed steps in the Hesketh Street public right-of-way. The walls terminate twelve (12) inches from the public sidewalk. In February 2013 Mr. and Mrs. Alex Sternhell of 27 Primrose Street were granted a

Special Permit to construct a new pair of cheekwalls alongside new steps in the Primrose Street public right-of-way which terminate twelve (12) inches from the public sidewalk.

FINDINGS REQUIRED:

1. The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;
2. The proposed Special Permit can be granted without substantial impairment of the intent and purpose of this chapter; and
3. For all Special Permits, except for Special Permits authorized by Sections 8-21, 8-26 or Chapter 25 of the Village Code, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property [not applicable in this case].

Draft Motion

I move to APPROVE/DENY the Special Permit request in Case A-6888 on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Special Permit 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 Special Permit request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6888
MR. JOHN J. CAMPANELLA &
MS. KATHLEEN M. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MARYLAND 20815

The applicants seek a Special Permit from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to maintain a wall which was constructed in the Cedar Parkway public right-of-way and which is located ten (10) inches from the public sidewalk.

Sec. 25-6 (a) states:
No structures, fence, wall, lamp post, hand rails, tree, hedge or shrubbery or any other growth, except grass, ground cover, flowers, and similar plantings, shall be placed on public property devoted to private use without the property owner first having obtained a license and having signed a right-of-way license agreement, in addition to any required building or Special Permit. Such agreement may be recorded in the county land records at the abutting property owner's expense. For the purposes of this Section, masonry piers and pillars shall be considered to be walls.

Sec. 25-6 (2) states:
All fences, lamp posts, trees, hedges, shrubbery and other growth shall be installed at least three (3) feet from the public sidewalk, or if there is no public sidewalk in the public right-of-way abutting the applicant's property, six (6) feet from the curb, or if there is no public sidewalk and no curb, six (6) feet from the nearest edge of the paved edge of the street.

Sec. 25-6 (c) states:
Except as provided in Sec. 25-6 (b), no structures, fence, wall, lamp post, hand rail, tree, hedge or shrubbery, or any other growth shall be permitted on public property devoted to private use without a Special Permit from the Board of Managers.

Should the request be approved, before any Special Permit will be issued the Applicants must enter into a right-of-way license agreement in a form acceptable to the Village.

Additional information regarding this appeal 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 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 31st day of March, 2016.

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

4

MAILING LIST FOR APPEALS A- 6888 & A-6889-MODIFICATION

MS. KATHLEEN M. CAMPANELLA &
MR. JOHN J. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Mr. William (Jay) West Or Current Resident 5912 Cedar Parkway Chevy Chase, MD 20815	Mr. & Mrs. Charles Hobbs Or Current Resident 33 West Kirke Street Chevy Chase, MD 20815
Ms. Clare M. Gilliam Or Current Resident 5908 Cedar Parkway Chevy Chase, MD 20815	Dr. & Mrs. Mark Eig Or Current Resident 34 West Kirke Street Chevy Chase, MD 20815
The Chevy Chase Club Or Current Occupant 6100 Connecticut Avenue Chevy Chase, MD 20815	

I hereby certify that a public notice was emailed (where possible) and mailed to the aforementioned property owners on the 31st day of March, 2016.

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
ESTABLISHED 1890

April 1, 2016

Mr. & Mrs. John Campanella
5910 Cedar Parkway
Chevy Chase, MD 20815

Dear Mr. & Mrs. Campanella:

Please note that your requests for two Special Permits (to widen the driveway and to maintain the wall that was constructed in the Cedar Parkway public right-of-way abutting your property) are scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a written decision pursuant to the Board's direction. No further work on the wall and no work on the driveway may take place until all applicable permits are issued.

For your convenience, enclosed please find copies of the Public Hearing Notices and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
MICHAEL L. DENGER, *Chair*
ELISSA A. LEONARD, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

Chevy Chase Village

Application for a Special Permit

Chevy Chase Village Code Section 8-1 defines a Special Permit as permission granted by the Board of Managers in accordance with Article II Division B of this Chapter [8], to construct, install, remove or alter a structure or planting , or take other action where such permission is required by this Chapter.

Subject Property: 5910 Cedar Parkway
Describe the Proposed Project: Maintain a stone wall in the right-of-way
Applicant Name(s) (List all property owners): John & Kathy Campanella
Daytime telephone: 202-332-5008 Cell:
E-mail: kcampanella@verizon.net
Address (if different from property address):
For Village staff use: Date this form received: 1/19/16 Special Permit No: A-6888

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 Special Permit* (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, except for Special Permits authorized by Sections 8-21 and 8-26 of Chapter 8, or Section 25-5 and 25-6 of Chapter 25 of the Chevy Chase Village Code.
- ☐ Applicable Special Permit fee 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: _____ **Date:** 1/15/16

Applicant's Signature: _____ **Date:** 1/15/16

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

Describe the reasons why approval of the Special Permit would not adversely affect the public health, safety or welfare or the reasonable use of adjoining properties:

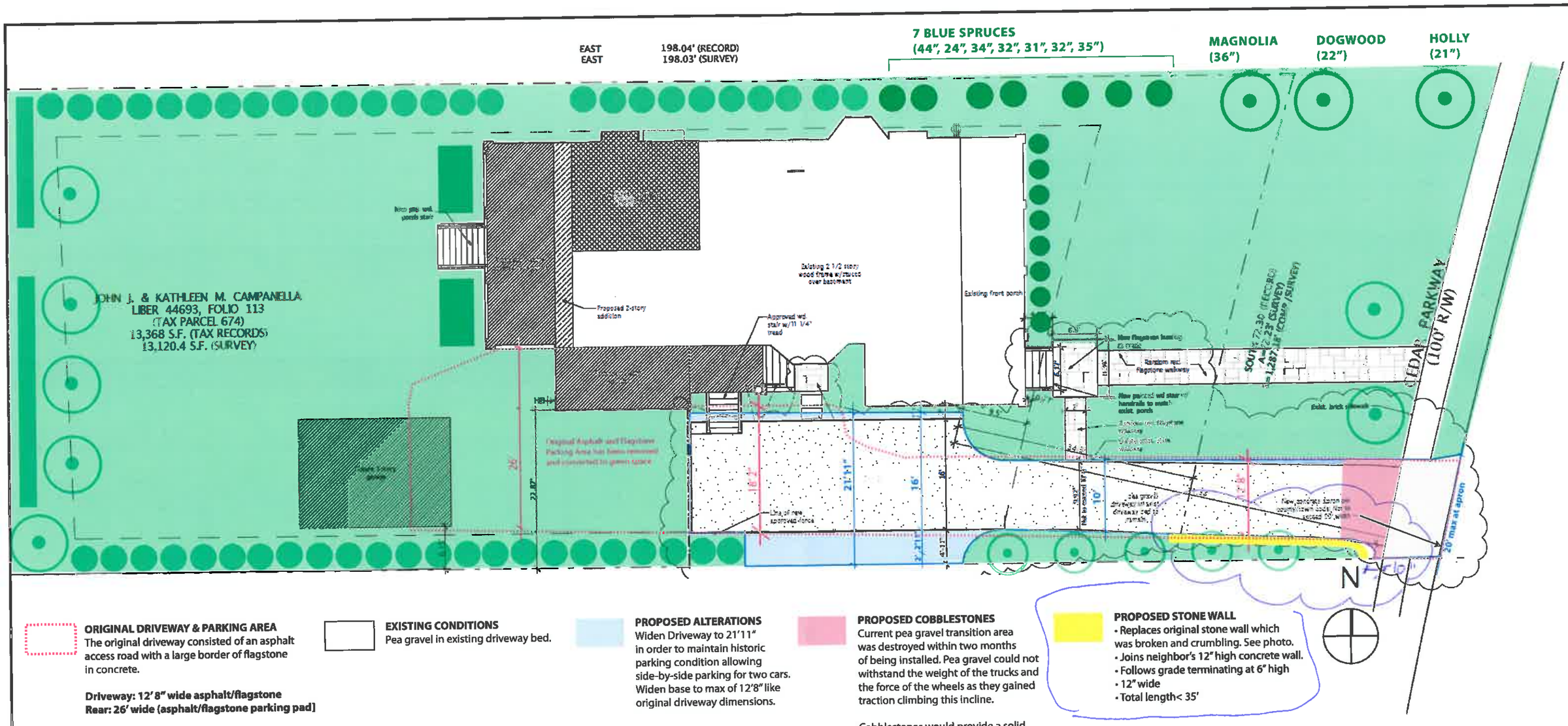
We are replacing a pre-existing non-conforming stone wall and extending it further along the driveway to make it more functional. Because of the grade, we need to retain earth to keep mud from the driveway and are aligning with the neighbor's wall to complete the enclosure.

Describe the reasons why the Special Permit can be granted without substantial impairment of the intent and purpose of Chapter 8, entitled *Buildings and Building Regulations,* or Chapter 25, entitled *Public Rights-of-Way* of the Chevy Chase Village Code:

While it is certainly clear that many other people on the block have similar encroachments not related to grade, at our particular address we need the wall to prevent mud from running onto the driveway. By aligning with the neighbor's wall we can complete the enclosure of the hill to achieve that. We are replacing a previous similar wall.

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

Special Permit Filing Fees	**Checks Payable To:** **Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815**
Per Village Code Sec. 6-2(a)(24): ☑ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $2,250.00 for demolition of main building. ☐ $300.00 for demolition of accessory building or structure. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. **Fee Paid:** $300.00 Check #4564	**Date Paid:** 1/19/16 **Staff Signature:**
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** _____ **Village Manager** **Date:** _____



ORIGINAL DRIVEWAY & PARKING AREA
The original driveway consisted of an asphalt access road with a large border of flagstone in concrete.

Driveway: 12' 8" wide asphalt/flagstone
Rear: 26' wide (asphalt/flagstone parking pad)

The large parking area (see above) was removed and converted to greenspace, reducing the overall impervious driveway surface by more than 30%.

Historically, the full width of the combination asphalt/flagstone driveway was consistently used to park two cars side by side.

EXISTING CONDITIONS
Pea gravel in existing driveway bed.

PROPOSED ALTERATIONS
Widen Driveway to 21'11" in order to maintain historic parking condition allowing side-by-side parking for two cars. Widen base to max of 12'8" like original driveway dimensions.

PROPOSED COBBLESTONES
Current pea gravel transition area was destroyed within two months of being installed. Pea gravel could not withstand the weight of the trucks and the force of the wheels as they gained traction climbing this incline.

Cobblestones would provide a solid foundation that would not sink from pressure of truck wheels.

PROPOSED STONE WALL
- Replaces original stone wall which was broken and crumbling. See photo.
- Joins neighbor's 12" high concrete wall.
- Follows grade terminating at 6" high
- 12" wide
- Total length< 35'

PROPOSED CONCRETE APRON
Concrete apron would continue over sidewalk area to provide a solid foundation for truck wheels.

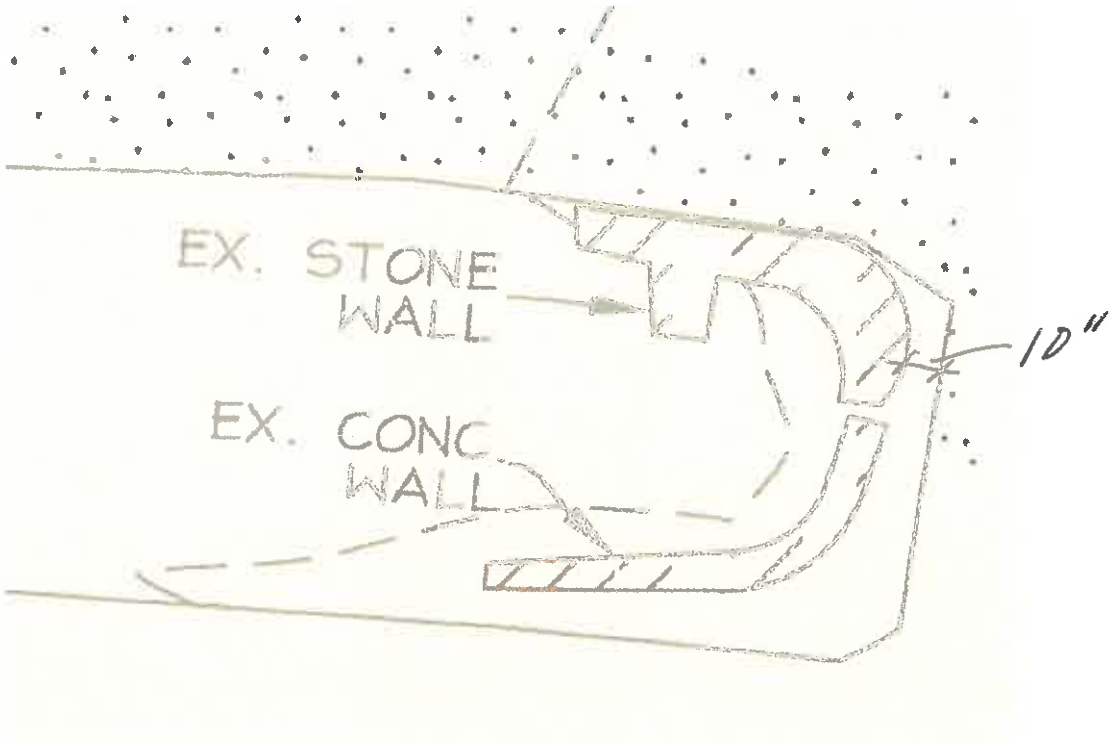


Figure 1: Detail from an early plat of the property, depicting the wall, supplied by the Applicants.

Figure 2: Photo showing the remnants of the previous wall.

NEIGHBORING CONDITIONS: 5906, 5908, 5910, 5912, & 5914 CEDAR PARKWAY

Stone wall at 5908 & 5910 (located about 1' from future sidewalk)

Stone wall at 5912 touches sidewalk

Brick wall at 5912 borders sidewalk

Stone wall and brick wall at 5912 Cedar

Stone wall and brick wall at 5912 Cedar

Fence meets sidewalk at 5914 Cedar

Cement curb meets sidewalk at 5908 Cedar

Cement curb meets sidewalk at 5908 Cedar

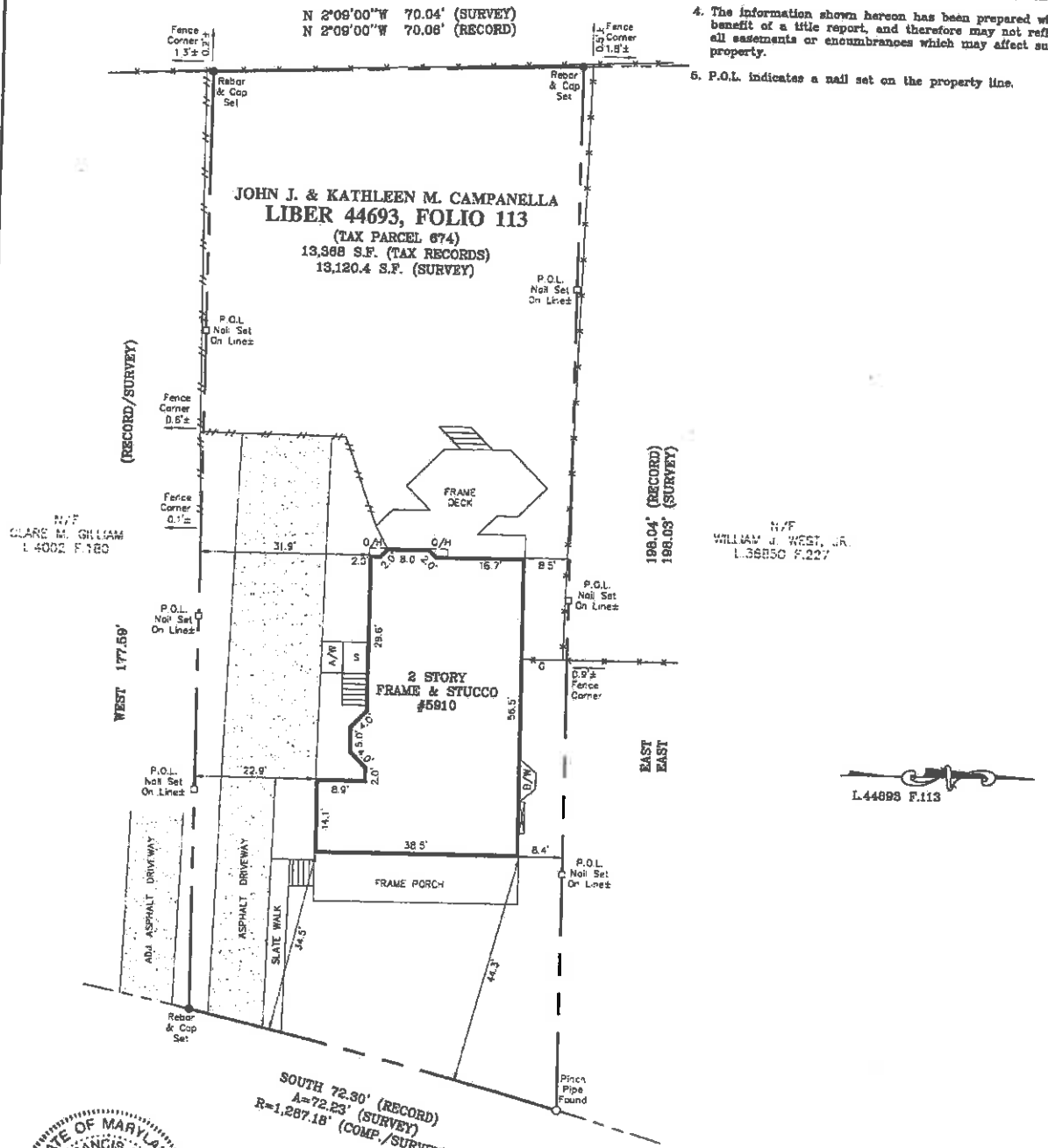
Cement curb meets sidewalk at 5906 Cedar

Chain link fence between 5908 & 5906 meets curb and sidewalk

NOTE:
All five neighboring properties have structures meeting the sidewalk. These pre-existing non-conformities are common and characteristic of Cedar Parkway homes.

GENERAL NOTES:

1. Property shown in Montgomery County Tax Assessment Map Book page HN-31.
2. All property corners have been recovered or set and verified per field survey performed: September 26, 2012.
3. Property is recorded among the land records of Montgomery County Described in Liber 44693 at Folio 113.
4. The information shown hereon has been prepared without benefit of a title report, and therefore may not reflect all easements or encumbrances which may affect subject property.
5. P.O.L. indicates a nail set on the property line.



STATE OF MARYLAND
WAYNE FRANCIS AUBERTIN
No. 21330
PROFESSIONAL LAND SURVEYOR

SURVEYOR'S CERTIFICATE

"I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN. THIS PLAT AND THE FIELD SURVEY UPON WHICH IT IS BASED WAS PREPARED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE REGULATIONS GOVERNING LAND SURVEYING IN THE STATE OF MARYLAND."

10/1/12

MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 21330
EXPIRES: 01-07-2013

PLAT OF SURVEY
PROPERTY OF
JOHN J. & KATHLEEN M. CAMPANELLA
LIBER 44693, FOLIO 113
(TAX PARCEL 674)
MONTGOMERY COUNTY, MARYLAND

REFERENCES	
PLAT BK.	
PLAT NO.	
LIBER	44693
FOLIO	113

SNIDER & ASSOCIATES
LAND SURVEYORS
20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS	
WALL CHECK:	
HSE. LOC.:	
PROP. CORS.:	09-26-12

SCALE:	1" = 20'
DRAWN BY:	J.M.
JOB NO.:	12-03869B

Chevy Chase Village

Building Permit Application for Projects in the Public Right-Of-Way

Permit No: A-6888

Property Address: 5910 Cedar Pkwy

Resident Name: Kathy Campanella

Daytime telephone: 202 320 5008 Cell phone: 202 320 5008

After-hours telephone: 301-215-4151

E-mail: Kcampanella@verizon.net

Project Description: construct ~~walls~~ on ~~north~~ south side of driveway extending ± 12" above surface of driveway

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. *(required)*:

Information for Contractor or Primary Contact for Project (if different from property owner):

Name:

Work telephone: After-hours telephone:

Cell phone:

E-mail:

Parking Compliance:

Is adequate on-site parking available for the construction crews? ☒ Yes ☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons? ☐ Yes ☒ No

Guidelines for Construction in the Public Right-of-Way

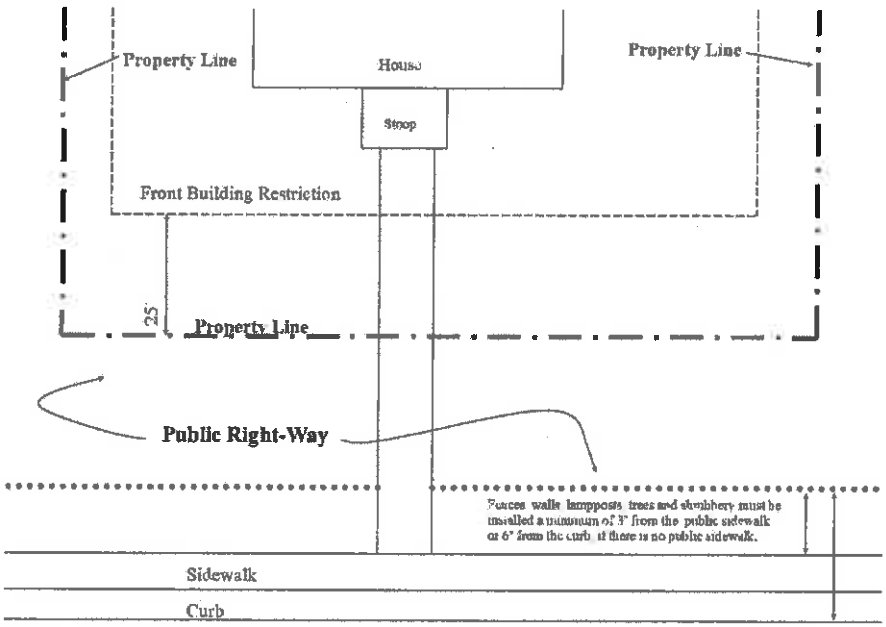
The public property located between public sidewalks and abutting private property (or, in the absence of public sidewalks, located between the paved roadways and abutting private property) where such public property is under the immediate care and keeping by an abutting property owner or occupant, shall be considered to be public right-of-way devoted to private use. Any person intending to install private improvements in the public right-of-way must first obtain a Building Permit and a License to Use the Public Right-of-Way from the Village office, subject to the provisions of Chapter 25 of the Village Code. (Residents within the Historic District must also obtain a Historic Area Work Permit; please contact the Historic Preservation Commission directly.)

The following are examples of, but not limited to, improvements requiring a Building Permit and License to Use the Public Right-of-Way:

Overhead or underground wires, cables, hoses, pipes, and similar facilities.
Improvements made by any person or persons, firm or corporation desiring to string, lay, hang, suspend or in any manner place wires of any kind, cables, hoses, pipes, and similar facilities on, over, or under any street or other public right-of-way.

Structures, play equipment, fences, walls, lampposts, trees, hedges and shrubbery.
Subject to location requirements and height restrictions as outlined in Chapter 25 of the Village Code and diagrammed below.

Example of the Right-of-Way:



Building Permit Filing Requirements:

Application will not be reviewed until the appropriate information is supplied and complete

- ☐ This application form, signed by resident.
- ☐ Boundary Survey (Plat Diagram).
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued, if applicable). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Building Officer and Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.

No signs advertising the architect, contractor, or any other service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code, including the Urban Forest Code, any easements and the approved plans.

Applicant's Signature: _____ **Date:** _____

To be completed by Village staff			
Is this property within the historic district?	Yes ☐	No ☐	Staff Initials: _____
Will the License be Recorded in the Land Records?	Yes ☐	No ☐	Staff Initials: _____
Date application filed with Village: _____	Date permit issued: _____		Expiration date: _____

Building Permit Filing Requirements:

Application will not be reviewed until the appropriate information is supplied and complete

- [x] This application form, signed by resident.
- [x] Boundary Survey (Plat Diagram).
- [x] Site Plan (see: Village Site Plan Checklist to ensure completeness)
- [ ] Building plans and specifications
- [x] Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- [x] Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- [ ] Damage deposit or performance bond (due when Building Permit is issued, if applicable). Amount of required deposit or bond will be set by Village Manager.

Once this permit application is complete, the Village Building Officer and Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days

No signs advertising the architect, contractor, or any other service provider may be posted on the work site

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code, including the Urban Forest Code, any easements and the approved plans.

Applicant's Signature: _____ **Date:** 12-9-15

To be completed by Village staff:

Is this property within the historic district? Yes [x] No [ ] Staff Initials: CS

Will the License be Recorded in the Land Records? Yes [ ] No [ ] Staff Initials: _____

Date application filed with Village: _____ Date permit issued: _____ Expiration date: _____

For Use By Village Building Officer & Village Manager	Application approved with the following conditions:

For Use By Village Building Officer & Village Manager	Application denied for the following reasons:
DENIED JAN 26 2016 Chevy Chase Village Manager	[illegible] The structure is located within the public right of way which is not permitted under Chp 25

Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Application Fee: ☑ $50.00 Construction on the R.O.W. ☐ $30.00 Planting on the R.O.W. ☐ $350.00 R.O.W. Use Agreement ☐ $175.00 R.O.W. Use Agreement for in-kind replacement of an existing non-conformity in the same location. ☑ $175.00 R.O.W. Use Agreement for which recordation in the County Land records is waived.	
Tree Preservation Plan Fee: ☐ $250.00 previously assessed ☑ Not required for this project.	
TOTAL Fees: $225.00	Date: Staff Signature:

Damage Deposit/Performance Bond (due when permit is issued)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:
Cost of damage to R-O-W: (calculated at close-out) Amount of refund:	Date: Village Manager Signature:

Chevy Chase Village

Website Posting Notice for Appeal, Special Permit & Variance Hearings

Case Number: A-6888 - continued

Hearing Date: April 14, 2016

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Kathy Campanella

Address: 5910 Cedar Parkway

Telephone: 301.215.4151

E-mail: KCampanella@verizon.net

Applicant/Appellant Signature:

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: KB Date: 3/21/16

A-6889-modification
Special Permit Request

Modify a previously approved Special Permit request to expand an existing gravel driveway from a maximum width of sixteen (16) feet to a maximum width of twenty-one feet, eleven inches (21'-11") on private property. The Village Board previously approved a Special Permit allowing the driveway to be expanded to a maximum of nineteen feet, eleven inches (19'-11") which was not installed.

Mr. John J. Campanella and
Ms. Kathleen M. Campanella
5910 Cedar Parkway

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS

FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

DATE: 4/7/2016

SUBJECT: HEARING OF CASE NO. A-6889- MODIFICATION (SPECIAL PERMIT REQUEST)
MS. KATHLEEN M. CAMPANELLA & MR. JOHN J. CAMPANELLA; 5910 CEDAR PARKWAY
MODIFY A PREVIOUSLY APPROVED SPECIAL PERMIT REQUEST TO EXPAND AN EXISTING GRAVEL DRIVEWAY FROM A MAXIMUM WIDTH OF SIXTEEN (16) FEET TO A MAXIMUM WIDTH OF TWENTY-ONE FEET, ELEVEN INCHES (21'-11") ON PRIVATE PROPERTY. THE VILLAGE BOARD PREVIOUSLY APPROVED A SPECIAL PERMIT ALLOWING THE DRIVEWAY TO BE EXPANDED TO A MAXIMUM OF NINETEEN FEET, ELEVEN INCHES (19'-11") WHICH WAS NOT INSTALLED.

NOTICE REQUIREMENTS: Abutting Owners; Public Notice

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code Sec. 8-26 states:
Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

APPLICABLE COVENANTS:

Not applicable; verification of compliance with the property's covenants is not required for Special Permit requests authorized by Sections 8-21 [fences], 8-26 [driveways] or Chapter 25 [Public Rights-of-Way] of the Village Code.

FACTUAL AND BACKGROUND INFORMATION:

The property is located on the west side Cedar Parkway and is located in the CCV Historic District. The Applicants have not yet obtained approval from the Historic Preservation Commission (HPC) for the expanded driveway (they are on the April 13 HPC agenda).

An administrative Special Permit was issued allowing the Applicants to replace an asphalt driveway with a gravel driveway in the same location, with a maximum width of sixteen feet, which exceeds the allowable width for a driveway on private property. Having obtained that approval and done the work, the Applicants determined that they would like to widen the driveway further, and they applied for a Special Permit to expand the driveway width. That request was for a maximum width of nineteen feet, eleven inches (19'-11") was granted but has not been installed. The Applicants state that the driveway would still not be wide enough to park two cars side by side and step out of the vehicle onto gravel. They are now requesting an additional two feet of width, for a proposed maximum width of twenty-one feet, eleven inches (21'-11").

**Figure 1: View of the driveway looking west. The green is the existing width (16');
yellow indicates the previously approved but not yet installed width (19'-11"); red is the proposed width (21'-11").**

The Property has undergone a recent renovation and addition, including the removal of a parking area in the rear yard of the property.

To date no letters have been received either in support of or opposition to the request.

The Village arborist has assessed the property. Construction of the expanded driveway requires implementation of a Tree Protection Plan prepared by the Village consulting arborist. No trees are proposed for removal due to the construction.

Applicable Fees: Building Permit Application: $30; Variance Application Fee: $300.

RELEVANT PRIOR CASES

On July 8, 1996 Mr. Jeff Foster and Ms. Candice Will of 4109 Oliver Street were **granted** a Special Permit to relocate a triangular portion of their parking pad so as to create a rectangular parking pad of approximately 25' x 20'. On November 9, 1999, Ms. Susan Gallagher and Mr. Michael Williams were **granted** permission to expand an existing driveway an additional fifteen (15) feet, increasing the total width of the driveway to forty-five (45) feet at the property line (this abuts Brookville Road and the area effectively acts as a parking pad). On July 20, 2006 Mr. and Mrs. Z.G Diznab of 142 Hesketh Street were **granted** a Special Permit to replace and widen an existing concrete driveway which would have a total maximum width of 25' at the entrance to a three-car garage. On April 19, 2007 Mr. Dane Butswinkas and Ms. Megan

Rupp of 3 Newlands Street were **granted** a Special Permit to construct a garage apron, a portion of which would measure a maximum of 30'-9" in front of an existing two-car garage. In December 2007 and September 2010, Mr. & Mrs. Stephen C. Conley of 9 West Lenox Street were **granted** a Special Permit to replace and expand an existing gravel driveway with a paver driveway. The proposed apron and turnaround area would be located on private property and would have a maximum width of fifty-four (54) feet. In June of 2012, Mr. and Mrs. Tony Schall of 103 Grafton Street were **granted** permission to expand an existing asphalt and concrete driveway with a wider cobblestone driveway that would measure a maximum of sixteen (16) feet in width in the front (south) yard of the property. In July 2012, Mr. and Mrs. Thomas Conaghan of 5628 Western Avenue were **granted** a Special Permit to widen an existing concrete driveway that would measure a maximum of forty (40) feet in width in the rear (north) yard of the property. A portion of the existing driveway would be removed. (The property abuts Western Avenue, which has parking restrictions, hence the Applicants requested additional parking in the rear yard, accessed by the private alley.) In June of 2013 Mr. and Mrs. Peter Wellington of 18 West Lenox Street were **granted** permission to replace and widen an existing asphalt driveway, a portion of which would measure a maximum of twenty feet, three and one-half inches (20'-3 ½") in width on private property. (The Applicants requested the additional width in order to navigate the driveway to the detached garage at the rear of the property.) In May 2013 Mr. & Mrs. Jerry Pritchett of 5607 Park Street were **granted** a Special Permit to replace and widen a concrete driveway, including a new paver border, which would measure a maximum of thirteen feet, nine inches (13'-9") in width in the Park Street public right-of-way. In November 2013 Ms. Ann Pelham Cullen and Mr. Robert Cullen, 117 East Melrose Street were **granted** a Special Permit to construct a driveway on private property that would measure a maximum of twenty-seven feet, nine and one-half inches (27'-9 ½") in width (the Applicants have a shared driveway with an abutting neighbor and contended that they needed the additional width on their property to be able to park without blocking the neighbor in). In November 2014 Mr. & Mrs. Benjamin Rippeon of 6134 Nevada Avenue were **granted** a Special Permit to widen the driveway at their property and in the public right-of-way abutting it.

FINDINGS REQUIRED:

1. The proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties;
2. The proposed Special Permit can be granted without substantial impairment of the intent and purpose of this chapter; and
3. For all Special Permits, except for Special Permits authorized by Sections 8-21, 8-26 or Chapter 25 of the Village Code, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property [not applicable in this case].

Draft Motion

I move to APPROVE/DENY the Special Permit request in Case A-6689-modification on the basis that the evidence presented, including the Staff Report and Case Synopsis, demonstrates that the applicable requirements for approval of the Special Permit 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 Special Permit request.

CHEVY CHASE VILLAGE
NOTICE OF PUBLIC HEARING

Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 11th day of April, 2016 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-6889-MODIFICATION
MR. JOHN J. CAMPANELLA & MS. KATHLEEN M. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MARYLAND 20815

The applicants seek a Special Permit from the Board of Managers pursuant to Section 8-9 of the Chevy Chase Village Building Code to modify a previously approved Special Permit request to expand an existing gravel driveway from a maximum width of sixteen (16) feet to a maximum width of twenty-one feet, eleven inches (21'-11") on private property. The Village Board previously approved a Special Permit allowing the driveway to be expanded to a maximum of nineteen feet, eleven inches (19'-11") which was not installed.

The Chevy Chase Village Code Sec. 8-26 states:

> Any driveway on private property may not exceed fifteen (15) feet in width without a Special Permit from the Board of Managers, except that the driveway in front of a two-car garage may extend the full width of the two-car garage, provided that such driveway does not exceed twenty (20) feet in length. An existing driveway that does not comply with the previous sentence may be replaced pursuant to Sec. 8-11.

Additional information regarding this appeal 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 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 31st day of March, 2016.

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

MAILING LIST FOR APPEALS A- 6888 & A-6889-MODIFICATION

MS. KATHLEEN M. CAMPANELLA &
MR. JOHN J. CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Mr. William (Jay) West Or Current Resident 5912 Cedar Parkway Chevy Chase, MD 20815	Mr. & Mrs. Charles Hobbs Or Current Resident 33 West Kirke Street Chevy Chase, MD 20815
Ms. Clare M. Gilliam Or Current Resident 5908 Cedar Parkway Chevy Chase, MD 20815	Dr. & Mrs. Mark Eig Or Current Resident 34 West Kirke Street Chevy Chase, MD 20815
The Chevy Chase Club Or Current Occupant 6100 Connecticut Avenue Chevy Chase, MD 20815	

I hereby certify that a public notice was emailed (where possible) and mailed to the aforementioned property owners on the 31st day of March, 2016.

Ellen Sands
Permitting and Code Enforcement Coordinator
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

CHEVY CHASE VILLAGE
ESTABLISHED 1890

April 1, 2016

Mr. & Mrs. John Campanella
5910 Cedar Parkway
Chevy Chase, MD 20815

Dear Mr. & Mrs. Campanella:

Please note that your requests for two Special Permits (to widen the driveway and to maintain the wall that was constructed in the Cedar Parkway public right-of-way abutting your property) are scheduled for consideration before the Board of Managers on Monday, April 11, 2016 at 7:30 p.m. Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

A decision will be made by the Board at the hearing and staff will be directed to draft a written decision pursuant to the Board's direction. No further work on the wall and no work on the driveway may take place until all applicable permits are issued.

For your convenience, enclosed please find copies of the Public Hearing Notices and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands
Permitting and Code Enforcement
Chevy Chase Village

Enclosures

CHEVY CHASE VILLAGE
5906 Connecticut Avenue
Chevy Chase, Maryland 20815
Phone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov
www.chevychasevillagemd.gov

BOARD OF MANAGERS
MICHAEL L. DENGER, *Chair*
ELISSA A. LEONARD, *Vice Chair*
RICHARD M. RUDA, *Secretary*
DAVID L. WINSTEAD, *Assistant Secretary*
GARY CROCKETT, *Treasurer*
ROBERT C. GOODWIN, JR., *Assistant Treasurer*
MINH LE, *Board Member*

VILLAGE MANAGER
SHANA R. DAVIS-COOK

LEGAL COUNSEL
SUELLEN M. FERGUSON

Chevy Chase Village

Application for a Special Permit

Chevy Chase Village Code Section 8-1 defines a Special Permit as permission granted by the Board of Managers in accordance with Article II Division B of this Chapter [8], to construct, install, remove or alter a structure or planting , or take other action where such permission is required by this Chapter.

Subject Property: 5910 Cedar Parkway
Describe the Proposed Project: Widen driveway to 21'11" at rear parking area.
Applicant Name(s) (List all property owners): John and Kathy Campanella
Daytime telephone: 2023205008 Cell:
E-mail: kcampanella@verizon.net
Address (if different from property address):
For Village staff use: Date this form received: 3/14/16 Special Permit No: A-6909

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 Special Permit* (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, except for Special Permits authorized by Sections 8-21 and 8-26 of Chapter 8, or Section 25-5 and 25-6 of Chapter 25 of the Chevy Chase Village Code.
- ☐ Applicable Special Permit fee 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 special permit 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: _____ Date: 3/14/16

Applicant's Signature: _____ Date: 3/14/16

(6)

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

Describe the reasons why approval of the Special Permit would not adversely affect the public health, safety or welfare or the reasonable use of adjoining properties:

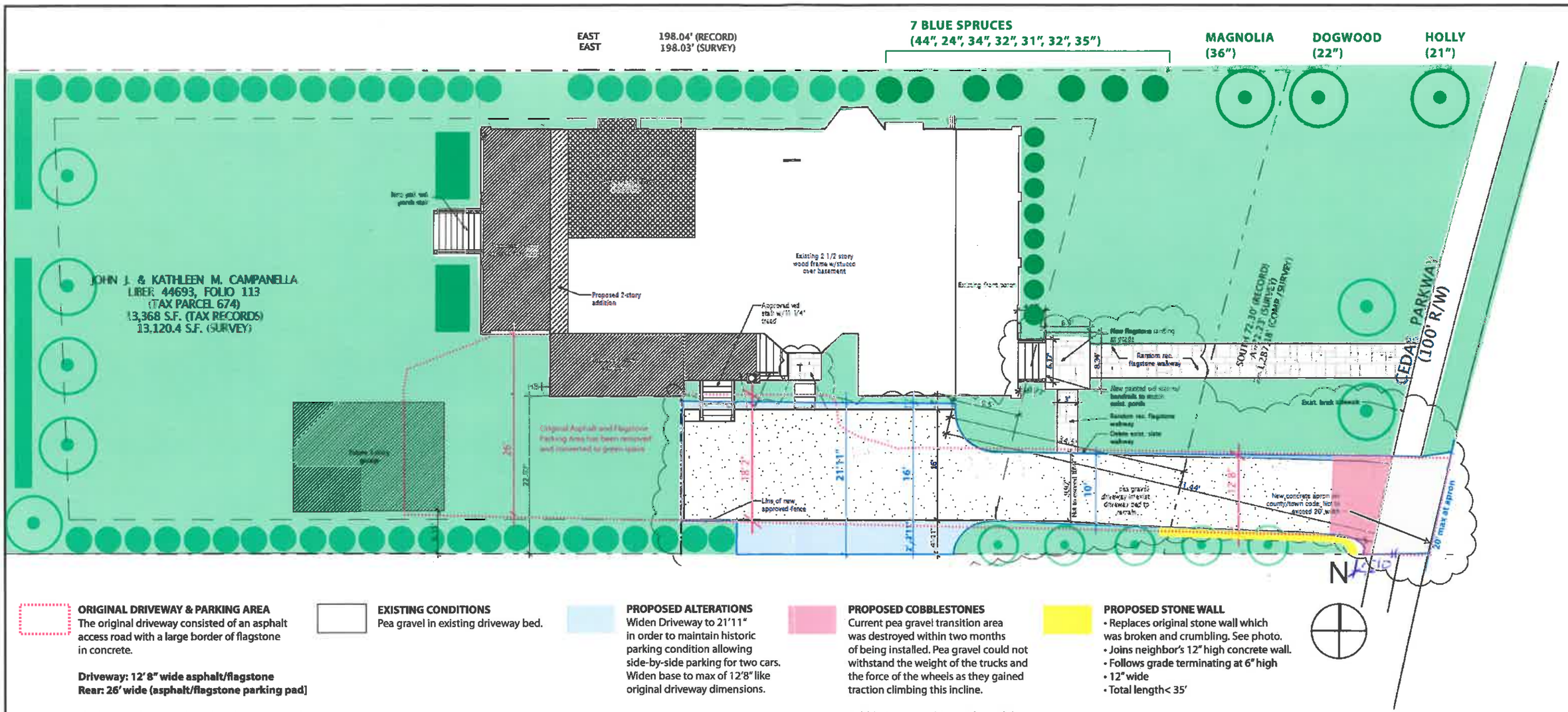
Owners of this residence have historically parked two cars side by side in this driveway on a daily basis for many years. The new proposal maintains this condition. (Please note that the original driveway size was reduced by more than 30% with impervious area converted to green space.)

Describe the reasons why the Special Permit can be granted without substantial impairment of the intent and purpose of Chapter 8, entitled *Buildings and Building Regulations*, or Chapter 25, entitled *Public Rights-of-Way* of the Chevy Chase Village Code

The original driveway asphalt and flagstone driveway was 12'8" wide at the entrance and 26' wide at the rear parking pad. Historically, the full width of the driveway was used consistently to park two cars side-by-side. It is important to maintain the side-by-side parking condition becuase there is very limited adjacent legal street parking for this address due to its location at a three way intersection.

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

Special Permit Filing Fees	**Checks Payable To:** **Chevy Chase Village** **5906 Connecticut Ave.** Chevy Chase, MD 20815
Per Village Code Sec. 6-2(a)(24): ☑ $300.00 for new construction. ☐ $150.00 for replacing existing non-conformities. ☐ $2,250.00 for demolition of main building. ☐ $300.00 for demolition of accessory building or structure. ☐ $300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. **Fee Paid:**	**Date Paid:** **Staff Signature:**
	Approved to Issue Building Permit per Board Decision Signed by the Board Secretary. **Signature:** **Village Manager** **Date:**



ORIGINAL DRIVEWAY & PARKING AREA
The original driveway consisted of an asphalt access road with a large border of flagstone in concrete.

Driveway: 12' 8" wide asphalt/flagstone
Rear: 26' wide (asphalt/flagstone parking pad)

The large parking area (see above) was removed and converted to greenspace, reducing the overall impervious driveway surface by more than 30%.

Historically, the full width of the combination asphalt/flagstone driveway was consistently used to park two cars side by side.

EXISTING CONDITIONS
Pea gravel in existing driveway bed.

PROPOSED ALTERATIONS
Widen Driveway to 21'11" in order to maintain historic parking condition allowing side-by-side parking for two cars. Widen base to max of 12'8" like original driveway dimensions.

PROPOSED COBBLESTONES
Current pea gravel transition area was destroyed within two months of being installed. Pea gravel could not withstand the weight of the trucks and the force of the wheels as they gained traction climbing this incline.

Cobblestones would provide a solid foundation that would not sink from pressure of truck wheels.

PROPOSED STONE WALL
- Replaces original stone wall which was broken and crumbling. See photo.
- Joins neighbor's 12" high concrete wall.
- Follows grade terminating at 6" high
- 12" wide
- Total length< 35'

PROPOSED CONCRETE APRON
Concrete apron would continue over sidewalk area to provide a solid foundation for truck wheels.

Chevy Chase Village

Building Permit Application for Driveways and Other Features at Grade

Permit No:

Property Address: 5910 Cedar Parkway

Resident Name: John & Kathy Campanella

Daytime telephone: 202-320-5008 Cell phone:

After-hours telephone:

E-mail:

Primary Contact for Project:

☒ Resident ☐ Architect ☐ Project Manager ☐ Contractor*

*MHIC/MD Contractor's License No. (*required*):

Primary Contact Information:

Name: Kathy Campanella

Daytime telephone: 202 320 5008 After-hours telephone:

E-mail: Kcampanella@verizon.net

Check all that apply:

☑ Driveway (If a new curb cut is required, note additional fee.)

☑ Walkway (Sidewalk)

☐ Patio, terrace, or deck at grade

Check all appropriate boxes:

Feature is: ☐ new;

☑ an enlargement of an existing feature; and/or

☐ being relocated.

☐ Feature is a replacement in-kind and in the same location.

Description of project: Widen previously approved driveway an additional two feet at rear parking area

To be completed by Village staff

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: ZS

Date application filed with Village: 3/4/16 Date permit issued: _____ Expiration date: _____

Guidelines for Building, Replacing and Maintaining Driveways

Village Code states that any person intending to install, replace or alter a driveway, or any material part thereof, must first obtain a Building Permit from the Village office. (Residents within the Historic District must also obtain a Historic Area Work Permit; please contact the Historic Preservation Commission directly.)

Driveways are regulated in three areas: (1) the portion of the driveway located on private property, (2) the portion of the driveway that crosses the public right-of-way, and (3) the driveway apron, which is the portion of the driveway that meets the public street. Please refer to the illustration below for an example of these components.

(1) Driveways on Private Property

Driveways on private property may be installed using any material the resident chooses (although residents within the Historic District must consult with HPC), provided that the driveway does not exceed fifteen feet (15') in width. Village Code allows residents to install a wider garage apron—the section of a driveway just forward of a garage—for two-car garages. The apron in front of a two-car garage may extend the full width of the two-car garage for a distance up to twenty feet (20') from the face of the garage. The Code applies this accommodation only for two-car garages.

(2) Driveways on the Public Right-of-Way

All driveways must cross the public right-of-way to access the street, but where private property ends and the public right-of-way begins ends is not always consistent from street to street, and may even vary from block to block (as discussed above). The first step is to determine where the right-of-way begins in front of your property. Your proposed driveway cannot exceed ten feet (10') in width where the driveway crosses the right-of-way. Also, if your driveway (whether new or replacement) crosses or intersects with a public sidewalk, the sidewalk material must be restored/maintained across the driveway so as to create a continuous public sidewalk of consistent material type.

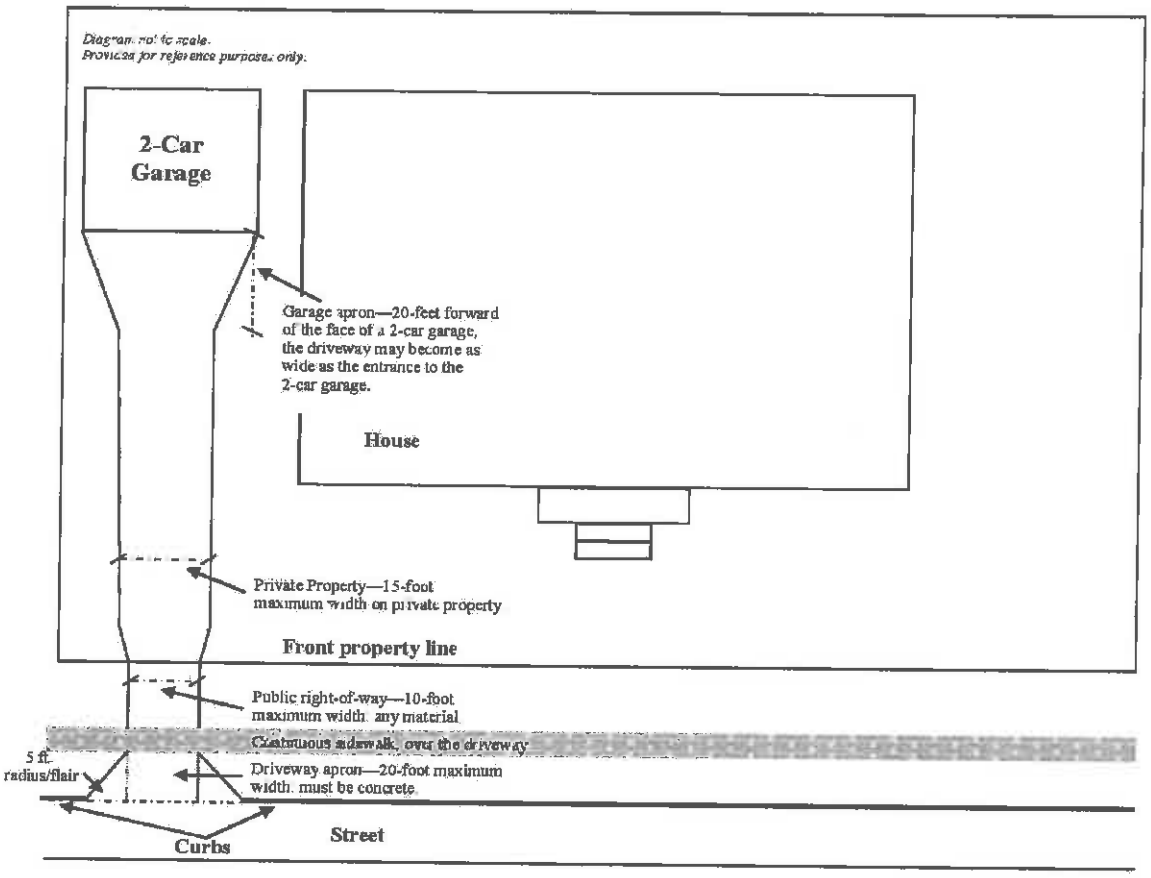
(3) Driveway Aprons

The driveway apron is the portion of the driveway that meets the public street. In addition to the ten foot (10') maximum width of the driveway where the driveway crosses the public right-of-way, the Village Code allows a five foot (5') radius on either side to establish the driveway apron, thereby allowing a maximum width at the curb of twenty feet (20'). While driveways on private property may be installed in any material or color that residents choose, the Village Code specifies that the driveway apron must be installed in accordance with current Montgomery County standards.

Village Code limits the number of curb cuts permitted per property to one. Accordingly, residents who wish to install a circular driveway will need to request a variance from the Board of Managers.

Unlike other improvements in the public right-of-way, a **License to Use the Public Right-of-Way** is not required to install or replace driveways or driveway aprons. Replacement of a driveway apron is the sole responsibility of the adjoining property owner, not the Village.

Example:



Building Permit Application Filing Requirements

Application will not be reviewed until the application is complete

- ❒ Copy of stamped approved plans from Montgomery County or Historic Preservation Commission (HPC).
- ❒ This application form, signed by resident.
- ❒ Boundary Survey
- ❒ Site Plan (see: Village Site Plan Checklist to ensure completeness) showing exact location of existing and proposed features.
- ❒ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ❒ Filing Fee (due at time of application). Fee schedule is listed in Chapter 6 of the Village Code.
- ❒ Damage deposit or performance bond (due when permit is issued). Amount will be set by Village Manager.

Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days. If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed. No signs advertising any service provider may be posted on the work site.

I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.

Applicant's Signature: _____ **Date:** 3-29-16

For Use By Village Manager	Application approved with the following conditions:

For Use By Village Manager	Application denied for the following reasons:
DENIED MAR 23 2016 Chevy Chase Village Manager	The driveway exceeds the maximum allowed width on private property.

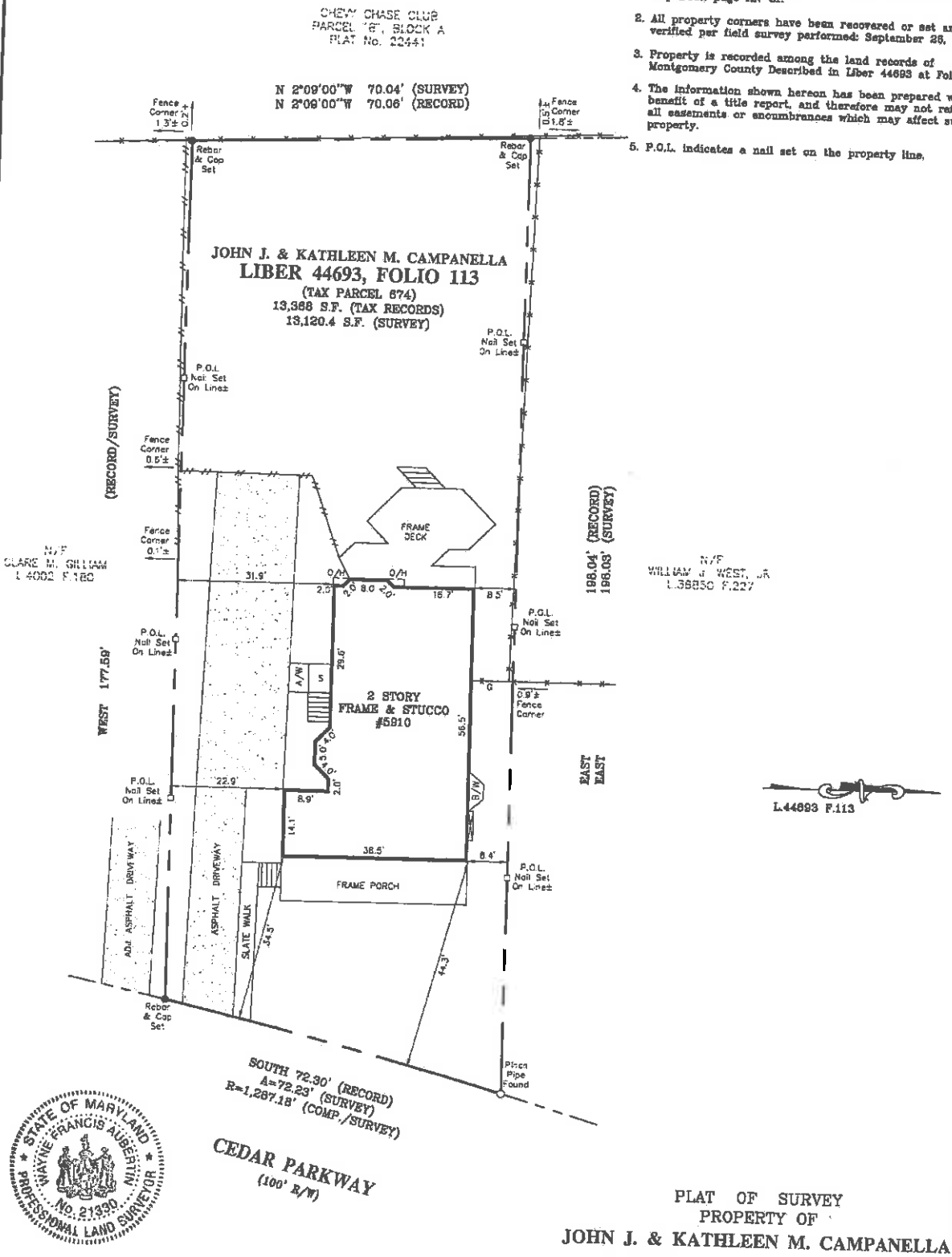
Filing Fees (due when application submitted)	Checks Payable to: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Permit Filing Fee: ☒ $30.00 (if new, enlarged or relocated) ☐ $15.00 (if a replacement in-kind and in the same location) ☐ $50.00 for new curb cut. ☐ $50.00 for construction in the Public Right-of-Way.	
Tree Preservation Plan Fee: ☐ $250.00 previously waived ☐ Not required for this project	
TOTAL Fees: $300	Date: 3/21/16 Staff Signature:
Damage Deposit/Performance Bond ☐ $_____ ☐ Waived by Village Manager	Date: Village Manager Signature:

For Village Staff use:

Field file for inspections by Code Enforcement Officer has been created: ☐Yes (Date:_____)

GENERAL NOTES:

1. Property shown in Montgomery County Tax Assessment Map Book page HN-31.
2. All property corners have been recovered or set and verified per field survey performed: September 26, 2012.
3. Property is recorded among the land records of Montgomery County Described in Liber 44693 at Folio 113.
4. The information shown hereon has been prepared without benefit of a title report, and therefore may not reflect all easements or encumbrances which may affect subject property.
5. P.O.L. indicates a nail set on the property line.



STATE OF MARYLAND
WAYNE FRANCIS AUBERTIN
No. 21330
PROFESSIONAL LAND SURVEYOR

SURVEYOR'S CERTIFICATE

"I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD SURVEY PURSUANT TO THE DEED OR PLAT OF RECORD. PROPERTY MARKERS HAVE BEEN RECOVERED OR PLACED IN ACCORDANCE WITH THE INFORMATION SHOWN. THIS PLAT AND THE FIELD SURVEY UPON WHICH IT IS BASED WAS PREPARED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH THE REGULATIONS GOVERNING LAND SURVEYING IN THE STATE OF MARYLAND."

10/1/12

MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 21330
EXPIRES: 01-07-2013

PLAT OF SURVEY
PROPERTY OF
JOHN J. & KATHLEEN M. CAMPANELLA
LIBER 44693, FOLIO 113
(TAX PARCEL 674)
MONTGOMERY COUNTY, MARYLAND

REFERENCES	
PLAT BK.	
PLAT NO.	
LIBER	44693
FOLIO	113

SNIDER & ASSOCIATES
LAND SURVEYORS
20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS		SCALE:	1" = 20'
WALL CHECK:		DRAWN BY:	J.M.
HSE. LOC.:			
PROP. CORS.:	09-26-12	JOB NO.:	12-03669B

Chevy Chase Village

Website Posting Notice for Appeal, Special Permit & Variance Hearings

Case Number: ~~A-6900~~ 6889 - modification

Hearing Date: 4/11/16

By signing below, I acknowledge as the applicant/appellant in the above-referenced case number that all supporting information and documentation for my case will be posted on the Village's website at <www.chevychasevillagemd.gov> for review by the general public.

Applicant/Appellant Name: Kathy Campanella

Address: 5910 Cedar Parkway

Telephone: 301.215.4151

E-mail: KCampanella@verizon.net

Applicant/Appellant Signature:

Agent Name for applicant/appellant (*if necessary*):

Telephone:

Address:

E-mail:

Signature of agent:

Village staff initials: CS Date: 3/21/16

Treasurer's Report
July-March (9 months of FY 2016)

Overall:

This report is a nine month snapshot for FY 2016. In FY 2016 we project to have a surplus of approximately $150,000, which would be $541,731 better than the deficit we had budgeted. Income tax revenue is projected to be approximately $200,000 more than budgeted (about 9% higher than budget). Also, since the approval of the original budget, supplemental appropriations have been made for an increase in the refuse and recycling contract and for additional Village Hall landscaping. However, higher than expected fees, county payments, plus lower than expected expenses in some areas, will offset the new expense from the supplemental appropriations approved for this fiscal year. We received from the State of Maryland a onetime income tax windfall in March of $161,741 due to a State audit of tax returns going back to 2010

Income Tax Revenue:

We are projected to come in approximately $200,000 over budget this year about 9% higher than projected, not including the onetime income tax windfall we received in March.

Property Tax Revenue:

We are projecting coming in around budget since we are using the constant yield rate for this fiscal year

Safe Speed Net Revenue:

We project this will be coming in right about at the budgeted amount. The last half of FY 2015 saw an increase in Safe Speed revenue from the first half of FY 2015 and so far this trend had continued for the first five months of FY 2016. However, due to construction on Connecticut Ave., this revenue has had a slight decrease since and we may still see a slight decrease going forward for a couple of months.

Miscellaneous Revenue:

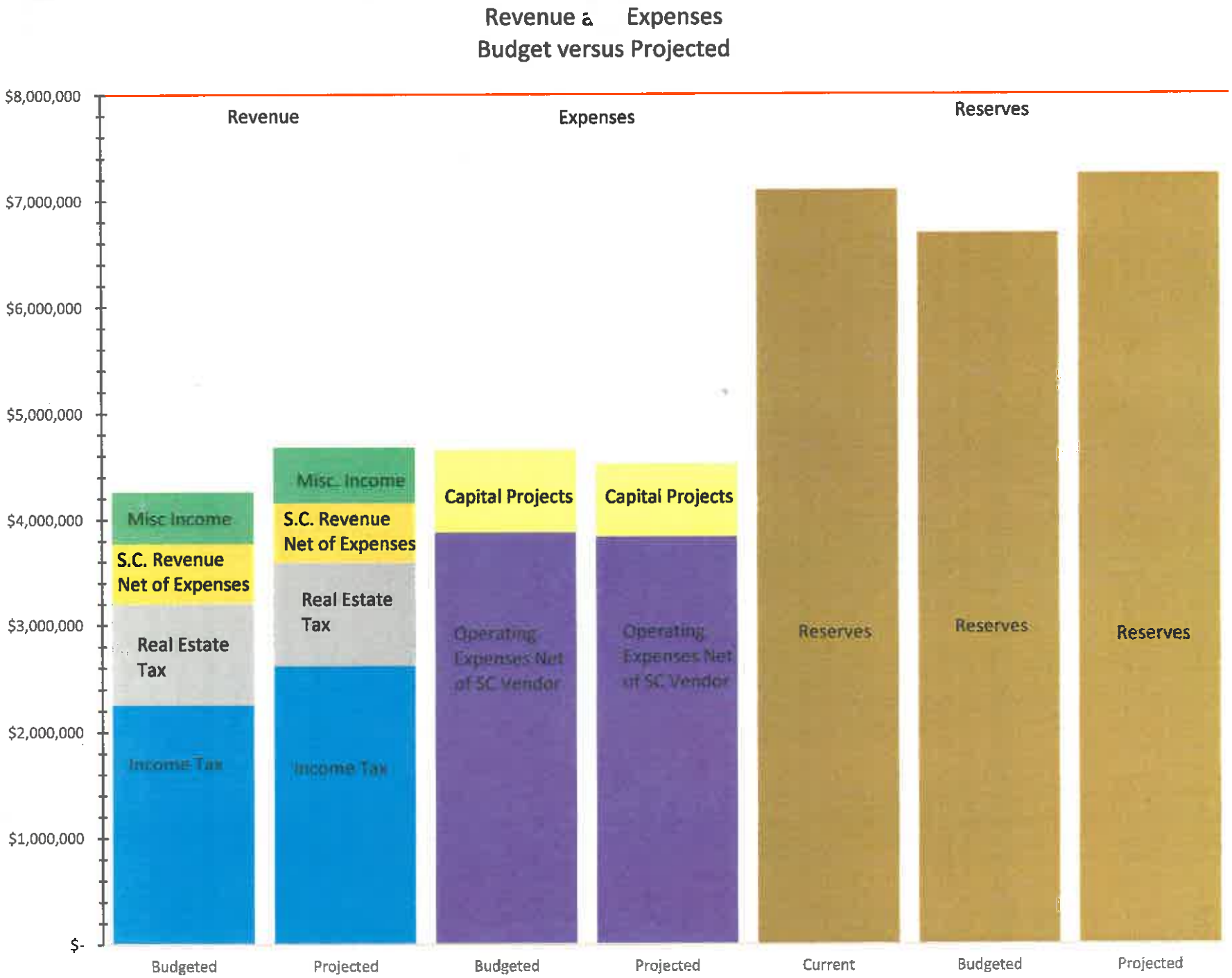
Net of reimbursement revenue for Newlands Street repaving, we project this to be over budget by $32,000 due to a higher than expected County tax duplication payment, and higher than expected fees and income.

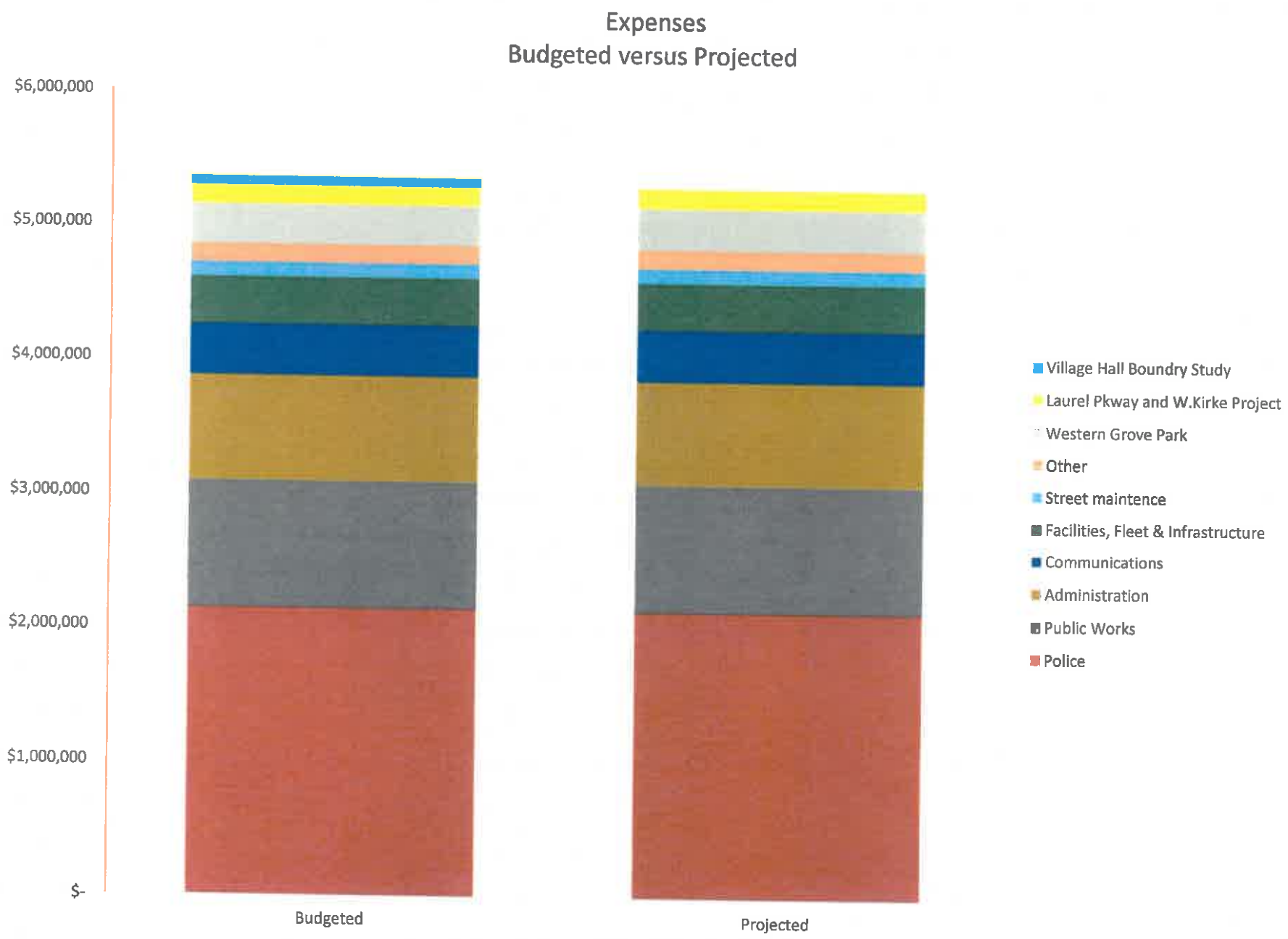
Capital Expense:

Based on the supplemental appropriation for Village Hall landscaping, a slightly higher contribution to Western Grove Park a donation to a local elementary school, and the implementation of the Village traffic study, we project to be about $20,000 over the original budget for the year, net of the reimbursed expense for Newlands Street repaving and not proceeding with the Village wide boundary study.

Operating Expense:

We project this will be 4-5%% below budget.


Revenue & Expenses
Budget versus Projected
$8,000,000
$7,000,000
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
Revenue
Expenses
Reserves
Misc Income
S.C. Revenue Net of Expenses
Real Estate Tax
Income Tax
Misc Income
S.C. Revenue Net of Expenses
Real Estate Tax
Income Tax
Capital Projects
Operating Expenses Net of SC Vendor
Capital Projects
Operating Expenses Net of SC Vendor
Reserves
Reserves
Reserves
Budgeted
Projected
Budgeted
Projected
Current
Budgeted
Projected


Expenses
Budgeted versus Projected
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$-
Budgeted
Projected
Village Hall Boundry Study
Laurel Pkway and W.Kirke Project
Western Grove Park
Other
Street maintence
Facilities, Fleet & Infrastructure
Communications
Administration
Public Works
Police

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF REPORT

TO: BOARD OF MANAGERS

FROM: SHANA R. DAVIS-COOK, VILLAGE MANAGER

DATE: 4/6/2016

SUBJECT: RESOLUTION NO. 04-01-16: FY2016 BUDGET AMENDMENT (NO. 4) AN ORDINANCE TO AMEND THE FISCAL YEAR 2016 BUDGET TO RENAME THE "PARK DEVELOPMENT PROJECT" LINE ITEM IN THE CAPITAL BUDGET "PARK AND GREENSPACE DEVELOPMENT PROJECTS"; AUTHORIZE A DONATION TO THE SOMERSET ELEMENTARY SCHOOL FOUNDATION FOR THE REPLACEMENT OF THE SCHOOL'S TURF FIELD; TRANSFER $43,100 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "LAUREL PARK AND W. KIRKE INTERSECTION" LINE ITEM IN THE CAPITAL BUDGET TO FUND THIS PROJECT; TRANSFER $13,350 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "WESTERN GROVE PARK" LINE ITEM IN THE CAPITAL BUDGET TO FUND THE VILLAGE'S CONTRIBUTION TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION FOR THE DEVELOPMENT OF THE WESTERN GROVE PARK.

The attached budget amendment ordinance seeks to amend the FY2016 capital budget to fund expenditures approved by the Board at your March 14, 2016 meeting, as follows:

Donation to the Somerset Elementary School Foundation

The Board voted to approve a $5,000 donation toward the capital improvement project to replace the existing dilapidated field with an artificial (synthetic) turf (with a plant-derived infill NOT a crumb-rubber infill). **To fund this expenditure, staff proposes renaming the "Park Development Project" capital line item (which was created to fund the improvements in the Large Oliver Street Park and is slated to be $7,000 below budget) as the "Park and Greenspace Developments Projects". By renaming this line item, no additional funds need to be allocated to the budget for the expenditure.**

Additional Project Cost for the Village Hall Traffic Improvements Project

This capital project is included in the FY2016 budget at $145,000. Construction bids for this project came in over budget. The Board has approved the contracts to proceed with the full project, however, this will require an allocation of $43,100 additional funds to make up the difference. **Staff proposes transferring $43,100 from the "Village Boundary Survey" (which the Board has decided not to pursue) line item in the capital budget to the capital budget line item for the Village Hall Traffic Improvements Project, titled "Laurel Park. And W. Kirke Intersection". By transferring money between capital budget line items, the capital budget total remains the same.**

Development of Western Grove Park

The Village allocated $300,000 in the FY2016 capital budget to fund an approximate 25% donation toward the $1 million estimated construction cost for the development of this park, located in the Village and owned by Montgomery County. The remaining money was to be used for the purchase of a small utility vehicle, which would be used by the Village to clear snow and ice from the sidewalks within and surrounding the park pursuant to our

Memorandum of Understanding with the Maryland-National Capital Park and Planning Commission. This utility vehicle was purchased earlier in the fiscal year at a cost of $13,350.

The construction bids for this project came in over budget and Park & Planning is seeking an additional contribution toward the project. On March 14, the Board approved issuance of the originally agreed upon $250,000 plus an additional contribution of $50,000 to fund a portion of the shortfall. **Staff proposes transferring the remaining balance of the capital budget for the "Village Boundary Survey" in the amount of $13,350 to the "Western Grove Park Development" line item in the capital budget to fund the additional contribution. By transferring money between capital budget line items, the capital budget total remains the same.**

DRAFT MOTION

I move to approve Resolution No. 04-01-16, AS DRAFTED OR AMENDED AS FOLLOWS_____.

Attachments
Budget Summary w/ amendments shown
Resolution No. 04-01-16

General Funds and SafeSpeed Budgets
Proposed for Amendment on April 11, 2016
w/amendments shown
=amounts changed

			FY2016	NEW VALUE	TOTAL	DIFF.
I. Revenue						
Income Tax			2,250,000			
Property Tax			955,500			
Investments & Misc. Income			46,000			
Cost Recoveries/Grants			441,046			
Citation Revenue			1,392,500			
Total Revenue			5,085,046			
II. Costs						
A. On-going Programs	**Personnel**	**Operations**	**Total**			
Department Services						
Police	1,337,805	795,370	2,133,175			
Communications	357,800	20,420	378,220			
Public Works	605,316	351,100	956,416			
General Government	624,350	160,340	784,690			
Professional Services		100,000	100,000			
Facilities, Fleet, & Infrastructure						
Village Hall		96,925	96,925			
Parks, Trees, & Greenspace		212,950	212,950			
Lights		42,500	42,500			
Subtotal	2,925,271	1,779,605	4,704,876			
Surplus/Deficit			380,170			
B. Capital Projects						
Equipment						
Public Works Equipment			27,000			
Public Works Vehicle			42,000			
Computer Servers			9,000			
Website Redesign			18,500			
Projects						
Sidewalk Maintenance			3,500			
Street Maintenance			136,000			
Western Grove Park			300,000	**313,350**	**313,350**	+13,350
Laurel Park and W. Kirke Intersection			145,000	**188,100**	**188,100**	+43,100
Village Boundary Study			60,000	**3,550**	**3,550**	-56,450
Street Light Upgrades			10,000			
Public Safety Technology			20,000			
Village Hall Landscaping			5,900			
Park and Greenspace Development Projects			13,500			
Subtotal			790,400			
Total Costs			5,495,276			
III. Budgeted Deficit/Draw on Reserves			(410,230)			

Resolution No.: 04-01-16

Introduced: 04-11-16

Adopted: 04-11-16

Effective: 04-25-16

BOARD OF MANAGERS

FOR

CHEVY CHASE VILLAGE, MD

SUBJECT: AN ORDINANCE TO AMEND THE FISCAL YEAR 2016 BUDGET TO RENAME THE "PARK DEVELOPMENT PROJECT" LINE ITEM IN THE CAPITAL BUDGET "PARK AND GREENSPACE DEVELOPMENT PROJECTS"; TO AUTHORIZE A $5,000.00 DONATION TO THE SOMERSET ELEMENTARY SCHOOL FOUNDATION FOR THE REPLACEMENT OF THE SCHOOL'S TURF FIELD; TO TRANSFER $43,100 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "LAUREL PARK AND W. KIRKE INTERSECTION" LINE ITEM IN THE CAPITAL BUDGET TO FUND THIS PROJECT; TO TRANSFER $13,350 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "WESTERN GROVE PARK" LINE ITEM IN THE CAPITAL BUDGET TO FUND THE VILLAGE'S CONTRIBUTION TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION FOR THE DEVELOPMENT OF THE WESTERN GROVE PARK.

WHEREAS, §5-205 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Board of Managers to provide for the control and management of its finances and spend money for any public purpose and for the safety, health, and general welfare of the Village and its occupants; and

CAPS : Indicate matter added to existing law.
[~~Brackets~~] : Indicate matter deleted from law.
Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance

WHEREAS, Section 6-203 of the Tax-Property Article, of the Annotated Code of Maryland (as amended), grants authority to municipal corporations to levy a tax on personal property, land, and improvements thereon, within the municipal corporation; and

WHEREAS, Section 77-14(a) of the Chevy Chase Village Charter authorizes the Board of Managers to adopt such ordinances as it deems necessary for the health, safety and welfare of the Village; and

WHEREAS, Section 77-6 of the Chevy Chase Village Charter authorizes the Board to adopt and amend a budget; and

WHEREAS, the Board of Managers has determined that $5,000 should be donated toward the replacement of the turf field located at Somerset Elementary School and that the Capital Project entitled "Park Development Project" should be renamed "Park and Greenspace Development Projects" to reflect the expanded purpose for the funds in this line item; and

WHEREAS, the Board of Managers has determined that $43,100 should be transferred from the Capital Project entitled "Village Boundary Survey" to the Capital Project entitled "Laurel Park and W. Kirke Intersection" for the purpose of implementing this project; and

WHEREAS, the Board of Managers has determined that $13,350 from the Capital Project entitled "Village Boundary Survey" should be transferred to the Capital Project entitled "Western Grove Park" for the purpose of donating an additional $50,000 to the Maryland-National Capital Park and Planning Commission toward the development cost of the park; and

WHEREAS, the Board of Managers has determined that these amendments to the Budget Ordinance are required to reflect the increased expenditures, rename the Capital Project for the development of parks and greenspaces, and to fund these increases through transfers within the existing budget.

WHEREAS, the Board of Managers finds that the budget amendment as hereinafter set forth is necessary to assure the good government of the Village; for the protection and preservation of the Village'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, comfort, and convenience of the residents of the Village.

NOW THEREFORE, the Board of Managers of Chevy Chase Village does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND THE FISCAL YEAR 2016 BUDGET TO RENAME THE "PARK DEVELOPMENT PROJECT" LINE ITEM IN THE CAPITAL BUDGET "PARK AND GREENSPACE DEVELOPMENT PROJECTS"; TO AUTHORIZE A $5,000.00 DONATION TO THE SOMERSET ELEMENTARY SCHOOL FOUNDATION FOR THE REPLACEMENT OF THE SCHOOL'S TURF FIELD; TO TRANSFER $43,100 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "LAUREL PARK. AND W. KIRKE INTERSECTION" LINE ITEM IN THE CAPITAL BUDGET TO FUND THIS PROJECT; TO TRANSFER $13,350 FROM THE "VILLAGE BOUNDARY SURVEY" LINE ITEM IN THE CAPITAL BUDGET TO THE "WESTERN GROVE PARK" LINE ITEM IN THE CAPITAL BUDGET TO FUND THE VILLAGE'S CONTRIBUTION TO THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION FOR THE DEVELOPMENT OF THE WESTERN GROVE PARK..

SECTION 1.

BE IT ORDAINED AND ORDERED this 11th day of April, 2016, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Sec. 77-6 and Sec. 77-14 of the Village Charter, that the budget adopted for the 2016 fiscal year, from July 1, 2015 through June 30, 2016, be and the same hereby is amended to:

Rename the "Park Development Project" line item in the Capital Budget "Park and Greenspace Development Projects"; authorize a donation to the Somerset Elementary School Foundation for the replacement of the school's turf field; transfer $43,100 from the "Village Boundary Survey" line item in the Capital Budget to the "Laurel Park and W. Kirke Intersection" line item in the Capital Budget to fund this project; transfer $13,350 from the "Village Boundary Survey" line item in the Capital Budget to the "Western Grove Park" line item in the Capital Budget to fund the Village's contribution to the Maryland-National Capital Park and Planning Commission for the development of the Western Grove Park.

AND BE IT FURTHER ORDAINED AND ORDERED, this 11th day of April, 2016, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland and Sec. 77-6 and Sec. 77-14 of the Village Charter 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 25th day of April, 2016, provided the same is posted at the Village Office for fourteen (14) days prior thereto.

CHEVY CHASE VILLAGE

_____
Michael L. Denger, Chairman
Board of Managers
Chevy Chase Village

ATTEST:

_____
Shana R. Davis-Cook, Village Manager

General Funds and SafeSpeed Budgets
Proposed for Amendment on April 11, 2016

I. Revenue			**FY2016**
Income Tax			2,250,000
Property Tax			955,500
Investments & Misc. Income			46,000
Cost Recoveries/Grants			441,046
Citation Revenue			1,392,500
Total Revenue			5,085,046
II. Costs			
A. On-going Programs	**Personnel**	**Operations**	**Total**
Department Services			
Police	1,337,805	795,370	2,133,175
Communications	357,800	20,420	378,220
Public Works	605,316	351,100	956,416
General Government	624,350	160,340	784,690
Professional Services		100,000	100,000
Facilities, Fleet, & Infrastructure			
Village Hall		96,925	96,925
Parks, Trees, & Greenspace		212,950	212,950
Lights		42,500	42,500
Subtotal	2,925,271	1,779,605	4,704,876
Surplus/Deficit			380,170
B. Capital Projects			
Equipment			
Public Works Equipment			27,000
Public Works Vehicle			42,000
Computer Servers			9,000
Website Redesign			18,500
Projects			
Sidewalk Maintenance			3,500
Street Maintenance			136,000
Western Grove Park			313,350
Laurel Park and W. Kirke Intersection			188,100
Village Boundary Study			3,550
Street Light Upgrades			10,000
Public Safety Technology			20,000
Village Hall Landscaping			5,900
Park and Greenspace Development Projects			13,500
Subtotal			790,400
Total Costs			5,495,276
III. Budgeted Deficit/Draw on Reserves			(410,230)

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 11, 2016 MEETING

STAFF REPORT

TO: BOARD OF MANAGERS

FROM: SHANA R. DAVIS-COOK, VILLAGE MANAGER

DATE: 4/7/2016

SUBJECT: **INTRODUCTION OF RESOLUTION NO. 04-02-16:** AN ORDINANCE TO AMEND CHAPTER 2, "PUBLIC ETHICS", SEC. 2-6, "FINANCIAL DISCLOSURE – VILLAGE ELECTED OFFICIALS AND CANDIDATES TO BE VILLAGE ELECTED OFFICIALS", TO REQUIRE THAT AN APPLICANT FOR APPOINTMENT TO AN ELECTED POSITION FILE A FINANCIAL DISCLOSURE STATEMENT AT THE TIME THE CERTIFICATE OF APPOINTMENT IS FILED.

Background

The Board approved a comprehensive re-write of the Village's Charter late last year following a 6-month committee review. Among its recommendations, the committee proposed that the Financial Disclosure Statement requirements for candidates seeking appointment to fill a vacancy on the Board of Managers should be required when the Certificate of Appointment is filed rather than the current requirement which allows the successful candidate to file their statement within 30 days following appointment.

Requested for Board Action

Counsel has prepared the attached Ordinance for the Board's consideration and adoption, which reflects the Charter Revision Committee's recommended change in the filing requirement for appointment candidates' Financial Disclosure Statement. This change makes the Financial Disclosure Statement filing requirement for appointment candidates consistent with the filing requirements for election candidates.

State Ethics Commission Approval

The State Ethics Commission must review and approve all changes to the Village's Public Ethics Code. Resolution No. 04-02-16 is being introduced to the Board and, if approved, the ordinance will be submitted to the State Ethics Commission for approval before the ordinance is returned to the Village Board for final adoption.

Draft Motion

I move to APPROVE / DENY Resolution No. 04-02-16 AS DRAFTED / WITH THE FOLLOWING AMENDMENTS _____, for submission to the State Ethics Commission.

Attachment

Resolution No. 04-02-16

Resolution No.: 04-02-16

Introduced: 04-11-16

Adopted: _____

Effective: _____

BOARD OF MANAGERS

FOR

CHEVY CHASE VILLAGE, MD

SUBJECT: AN ORDINANCE TO AMEND CHAPTER 2, "PUBLIC ETHICS", SEC. 2-6, "FINANCIAL DISCLOSURE – VILLAGE ELECTED OFFICIALS AND CANDIDATES TO BE VILLAGE ELECTED OFFICIALS", TO REQUIRE THAT AN APPLICANT FOR APPOINTMENT TO AN ELECTED POSITION FILE A FINANCIAL DISCLOSURE STATEMENT AT THE TIME THE CERTIFICATE OF APPOINTMENT IS FILED

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Board of Managers to adopt such ordinances as it deems necessary to assure the good government of Chevy Chase Village; to protect and preserve the rights, property and privileges of the Village; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Village residents; and

WHEREAS, Section 77-14(a) of the Chevy Chase Village Charter authorizes the Board of Managers to adopt such ordinances as it deems necessary for the safety and welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and

CAPS : Indicate matter added to existing law.
[~~Brackets~~] : Indicate matter deleted from law.
Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS :Indicate matter added in amendment
[~~Brackets~~] :Indicate matter deleted in amendment

privileges; for the preservation of peace and good order and for securing persons and property from violence, danger or destruction; and for the suppression and abatement of all nuisances; and

WHEREAS, the Board of Managers has adopted Chapter 2, "Public Ethics"; and

WHEREAS, the Board of Managers has determined that it is in the public interest to require that an applicant for appointment to an elected position file a financial disclosure statement at the time the certificate of appointment is filed, instead of thirty days after appointment; and

WHEREAS, after proper notice to the public, the Board of Managers conducted public hearings at which it considered the following ordinance in public session assembled on the _____ day of _____, 2016 and _____ day of _____, 2016; and

WHEREAS, various changes are required in Sec. 2-6, "Financial disclosure – Village elected officials and candidates to be Village elected officials" to require that an applicant for an appointment to an elected position file a financial disclosure statement at the time the certificate of appointment is filed; and

NOW THEREFORE, the Board of Managers of Chevy Chase Village does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 2, "PUBLIC ETHICS", SEC. 2-6, "FINANCIAL DISCLOSURE – VILLAGE ELECTED OFFICIALS AND CANDIDATES TO BE VILLAGE ELECTED OFFICIALS", TO REQUIRE THAT AN APPLICANT FOR APPOINTMENT TO AN ELECTED POSITION FILE A FINANCIAL DISCLOSURE STATEMENT AT THE TIME THE CERTIFICATE OF APPOINTMENT IS FILED

SECTION 1.

BE IT ORDAINED AND ORDERED this _____ day of _____, 2016, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 77-14 of the Village Charter that Chapter 2, "Public Ethics", Sec. 2-6, "Financial disclosure – local elected officials and candidates to be local elected officials" be repealed, re-enacted and amended to read as follows:

Sec. 2-6. Financial disclosure — Village elected officials and candidates to be Village elected officials.

(a) This section applies to all Village elected officials and candidates to be Village elected officials.

(b) Except as provided in subsection (d) of this section, a [~~local~~] VILLAGE elected official or a candidate to be a [~~local~~] VILLAGE elected official shall file the financial disclosure statement required under this section:

(1) On a form provided by the Commission, including electronically-generated schedules containing the information sought by the Commission;

(2) Under oath or affirmation; and

(3) With the Commission.

(c) Deadlines for filing statements.

(1) An incumbent [~~local~~] VILLAGE elected official shall file a financial disclosure statement annually no later than April 30 of each year for the preceding calendar year.

(2) An individual who [~~is appointed~~] APPLIES to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a FINANCIAL DISCLOSURE statement for the preceding calendar year WITH THE CERTIFICATE OF APPOINTMENT [~~within thirty (30) days after appointment~~].

(3) An individual who, other than by reason of death, leaves an office for which a FINANCIAL DISCLOSURE statement is required shall file a statement within sixty (60) days after leaving the office.

(d) The FINANCIAL DISCLOSURE statement REQUIRED BY THIS SECTION shall cover:

(1) The calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(2) The portion of the current calendar year during which the individual held the office.

(e) through (k) * * * *

SECTION 2.

AND BE IT FURTHER ORDAINED AND ORDERED, this ____ day of _____, 2016, by the Board of Managers of Chevy Chase Village, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Section 77-14 of the Village Charter that:

(1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of 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_____, provided the same is posted at the Village Office for fourteen (14) days prior thereto, subject to approval by the State Ethics Commission.

CHEVY CHASE VILLAGE

_____
Michael L. Denger, Chairman
Board of Managers
Chevy Chase Village

ATTEST:

_____
Shana R. Davis-Cook, Village Manager

March 2016 CCVPD Highlights

I. Crime/Operational

1. **3 nighttime copper downspout theft events in the early morning hours of March 18:**
    - 5500 block of Center Street; copper downspouts were pulled away from the house and bent, but not stolen (attempt only)
    - Hesketh Street between Magnolia and Cedar (2 homes); residents heard something between 1:30 a.m. and 2:00 a.m., but the noise did not recur and they went back to sleep
2. **No thefts from autos were reported in March.**

II. Training/Administrative

1. **Our 2 newest officers completed the weeklong Crisis Intervention Team training**
2. **One of our nighttime dispatchers has completed first aid and CPR training.**
3. **Chief Fitzgerald attended the funeral for Prince George's County Officer Jacai Colson**

Select Reported Crimes 2016 vs. 2015				
	March '16	March '15	**YTD'16**	YTD'15
Assault	0	0	0	0
Auto Theft & attempts	0	0	0	0
Burglary & attempts	0	0	1*	0
Theft & attempts	3	0	20	10
Robbery	0	0	0	0

*bicycle stolen from inside an open garage

	Select Reported Crimes 2010-Present						
	2010	2011	2012	2013	2014	2015	**2016** as of 03/31/16
Assault	0	0	2	2	0	1	0
Auto Theft & attempts	3	6	2	5	0	3	0
Burglary & attempts	7	14	3	4	8	9	1
Theft & attempts	46	67	97	60	38	75	20
Robbery	1	0	0	0	1	0	0

CHEVY CHASE VILLAGE
ESTABLISHED 1890

POLICE DEPARTMENT
5906 Connecticut Avenue, Chevy Chase, Maryland 20815
(301) 654-7300 FAX: (301) 654-7304
chevychasevillagemd.gov

John Fitzgerald
Chief of Police

MEMORANDUM

TO: John Fitzgerald, Chief of Police

FROM: Bruce I Gessford, Communications Lead Dispatcher

DATE: April 1, 2016

SUBJECT: Monthly Communications Report for March, 2016

	Mar. 16	YTD 16	Mar. 15	YTD 15
Walk In	136	426	125	375
Incoming Phone Calls requiring no action*	990	2,981	1,066	2,990
Incoming Phone Calls requiring an action**	309	777	277	730
House Check Requests	182	409	127	394
Key Pick Up/Drop Off	47	149	44	115
Mail Pick Up	72	261	69	209
Special Pick Up Requests	82	189	86	185
Trash and Recycle Complaints	1	8	4	7

***Note: Incoming phone calls requiring no action include: information requests, forwarding calls internally and externally, providing directions, etc.**

****Note: Incoming phone calls requiring an action may include: house check requests, special pick ups, trash and recycle complaints, etc.**

Chevy Chase Village
Monthly Incident Report
March 2016

Burglary (Including attempts) 0

Theft from Auto (Including attempts) 0

911 Disconnect	0		Investigation/Police Information	0
Alarm	29		Lost Property	0
Animal Bite	0		Miscellaneous	8
Animal Complaint	7		Missing Person	0
Assault and Battery/Other Domestic	0		Noise Complaint	2
Assist Citizen	5		Open Door	7
Assist Other Agency	6		Open Trunk or Vehicle Door	1
Attempted Theft of Auto/Other Vehicle	0		Power Outage	1
Burglary (including attempts)	0		Parking Complaint	1
CDS - Possession Paraphernalia	0		Recovered Property/Montgomery County	4
Check the Welfare	3		Recovered Property/Other	0
Code Enforcement	1		Suspicious Persons/Vehicles	14
Collisions	17		Sudden Death - Natural	0
Hit and Run Property Damage	2		Thefts (including attempts)	3
Property Damage Collision	12		Thefts from Auto	0
Personal Injury Collision	3		Thefts from Other	3
Disabled Vehicle	4		Theft of Auto/Other Vehicle	0
DUI	0		Traffic Hazard	0
Fraud / Embezzlement / Confidence Game	1		Traffic Stop	0
Fail to Pay	0		Trees / Limbs Down	0
Family Trouble	0		Trespassing	0
Fire-Other	0		Vandalism	0
Identity Theft / Forgery	2		Vandalism-Motor Vehicle	0
Hazard - General	0		Vendor Violation	0
Hazard - Roadway	0		Wanted Person	0
Ill Person	5		Water Main Break	0
Injury Non-Traffic	0		Wires Down	0

Collisions within Chevy Chase Village
March 2016

Connecticut Avenue @ Bradley Lane	1		**Brookville Road @** Newlands Street	1
Connecticut Avenue @ Quincy Street	1		**Brookville Road @** East Lenox Street	1
Connecticut Avenue @ East Lenox Street	1		**Brookville Road @** East Kirke Street	1
Connecticut Avenue @East Kirke Street	1		**Cedar Parkway @** Oliver Street	1
Connecticut Avenue @ West Irving Street	2		6315 Broad Branch Road	1
Chevy Chase Circle @ Connecticut Avevnu	4		6 East Kirke Street	1
Chevy Chase Circle @ Grafton Street	1			

Chevy Chase Village
Monthly Traffic Report
March 2016

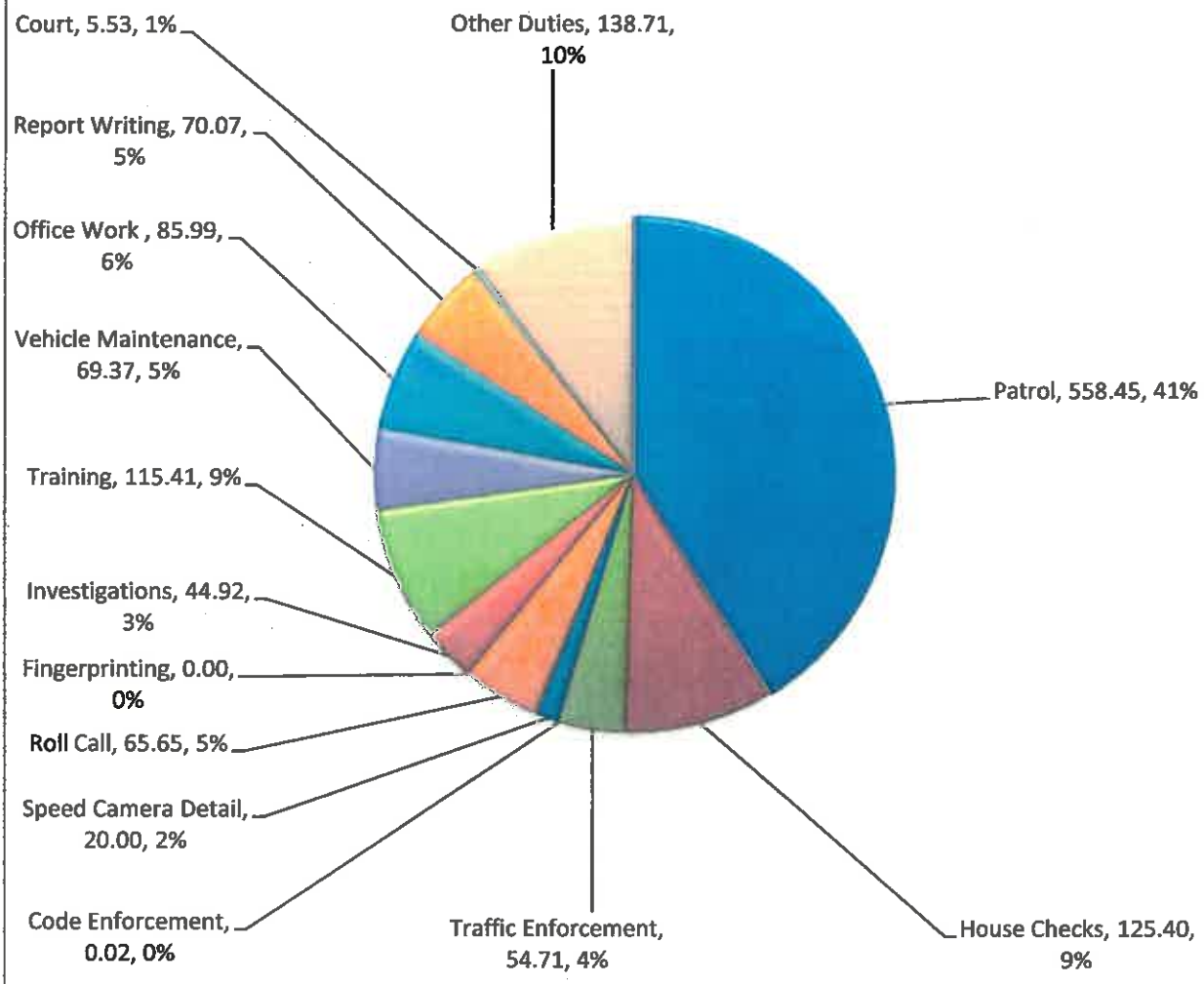
Equipment Repair Orders	1		Police Officers	
Miscellaneous Violations	8		Compliance Inquiry	3
Parking Violations	8		Investigations	0
Sign Violations	1			
Warnings Written	33		Municipal & Civil Citations Issued	0
Speeding Violations	0		Municipal & Civil Warnings Issued	0

Chevy Chase Village
Code Enforcement Report
March 2016

Chevy Chase Village
Agency Personnel Report

	Mar.	YTD
Citizen Complaints	0	0
Citizen Compliments	2	7

Chevy Chase Village Police Department Officer Hours for March 2016 within Chevy Chase Village



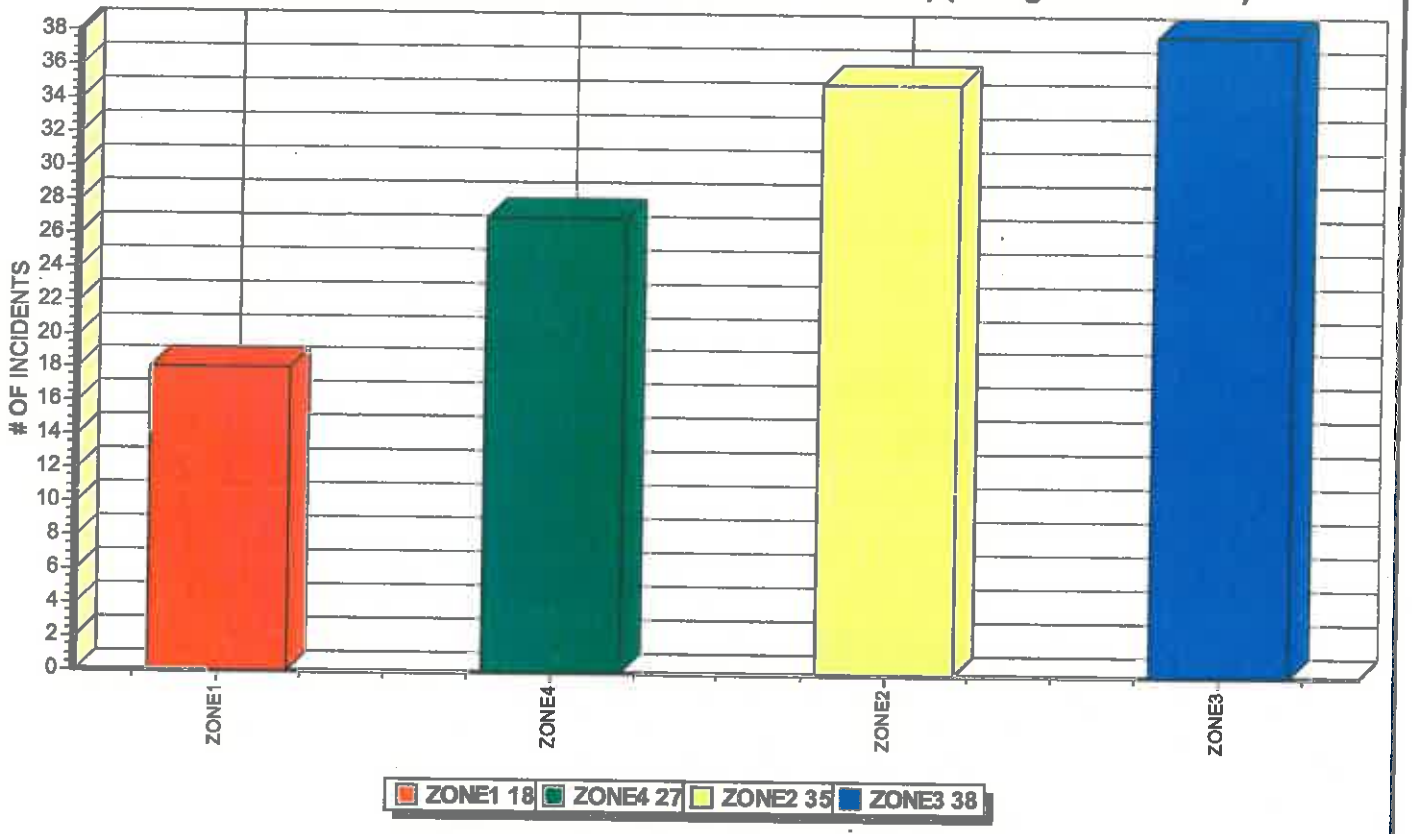
* Note: The SafeSpeed Coordinator's hours are 137.72, which are not included above

March 2016, Police Activity Requiring A Report – See Zone Map

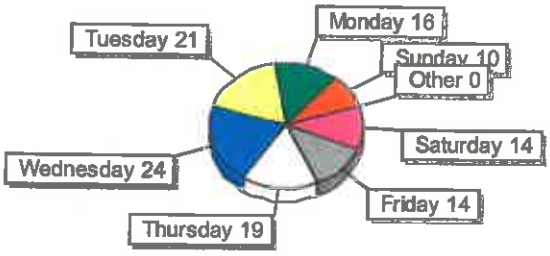
CHEVY CHASE VILLAGE POLICE

04/05/2016 13:01:30

Incident Frequency by DISTRICT (Top 4 of 4 Shown) (Using DATE RECD)

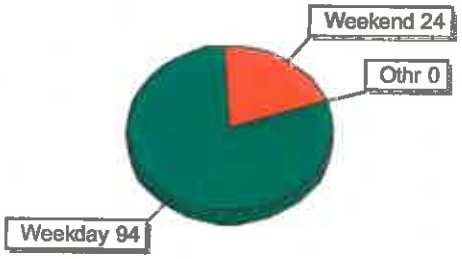


By Day of Week



Sunday	8.47 %	Monday	13.56 %
Tuesday	17.8 %	Wednesday	20.34 %
Thursday	16.1 %	Friday	11.86 %
Saturday	11.86 %	Other	0 %

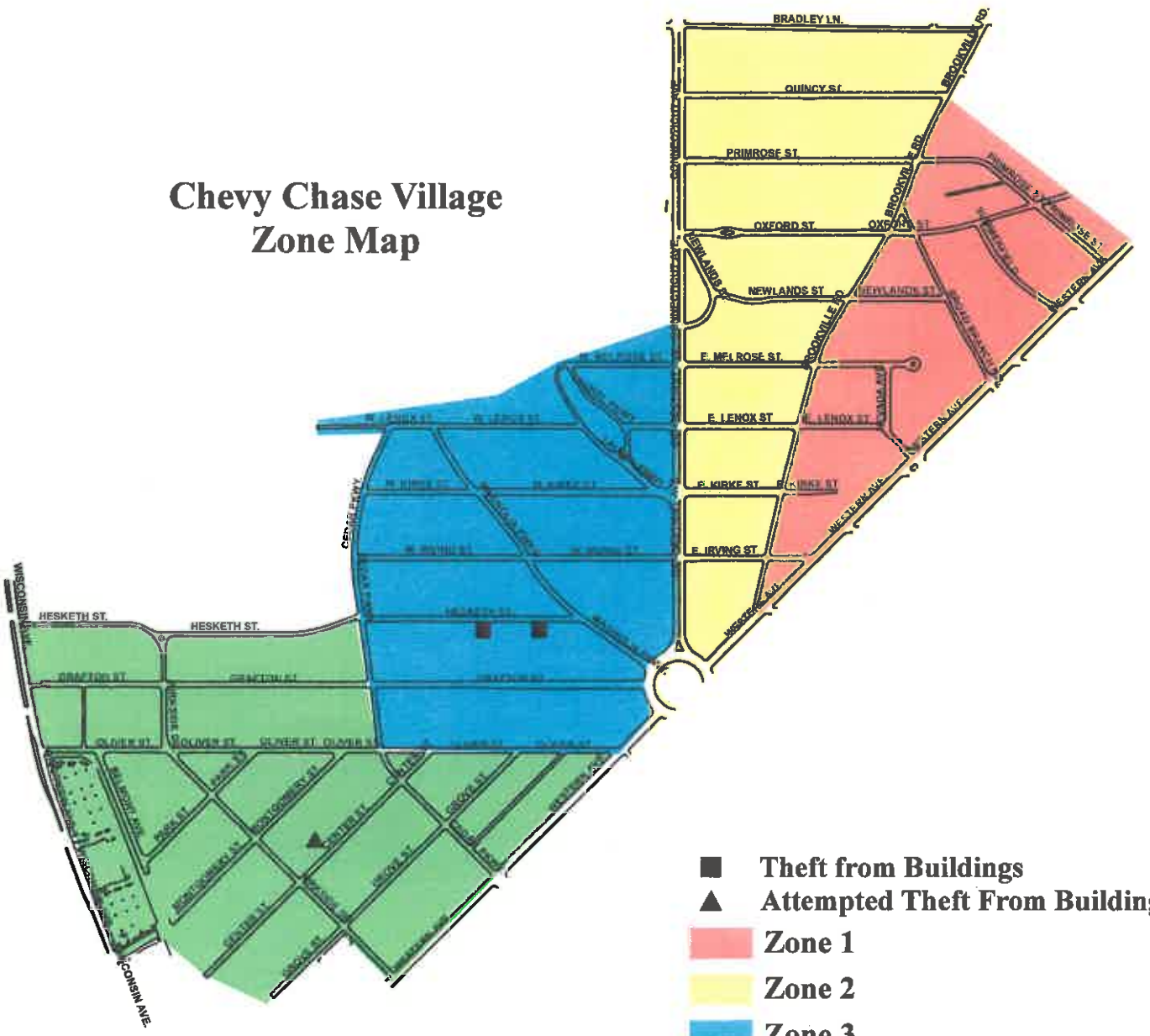
Weekday vs Weekend



Weekend	20.34 %	Weekday	79.66 %
Othr	0 %		

Search Criteria: (DISTRICT >= 'ZONE1')
(DISTRICT <= 'ZONE4')
(INCDNUM like '%%')
(DATE_RECD >= TO_DATE('03/01/2016','MM/DD/YYYY'))
(DATE_RECD <= TO_DATE('03/31/2016','MM/DD/YYYY'))

Chevy Chase Village
Zone Map



Chevy Chase Village
Building & Tree Removal Permits
Permits Issued- March 2016

Building Permits

Permit #	Address	Type of Work
6916	117 Oxford Street	Install replacement fence in the front yards.
6915	5604 Kirkside Drive	Install replacement fence in the front and side yards.
6914	33 Quincy Street	Construct steps, fireplace & water feature in the rear yard.
6913	33 Quincy Street	Construct new patio and walkway
6912	33 Oxford Street	Install handrails, one in the Oxford St. public ROW.
6908	5419 Center Street	Rebuild existing front stoop.
6907	6131 Nevada Avenue	Construct fence in the south (side) & front yards.
6906	19 Grafton Street	Modify existing deck and construct new roof.
6905	3 East Kirke Street	Upgrade existing water service.
6904	35 West Irving Street	Construct patio in the rear yard.
6903	6403 Connecticut Ave	Install two new air conditioners in the rear yard.
6902	17 West Irving Street	Install three foot fence in the front yard of the property.
6901	205 Primrose Street	Replace brick patio w/ slate in same location; add seat wall.

Tree Removal Permit

Permit #	Address	Type of Tree	Reason for Removal	Reforestation Indicated*
2221	6301 Broad Branch	(1) Elm	Hazardous	No
2219	5403 Center Street	(1) Redbud; (1) Pine	Hazardous	Yes

* Since commencing recordation of reforestation intentions in November of 2013, 48 of 107 Applicants (44.8 %) indicated that they would voluntarily be reforesting on their property.

Expiring Permit Notices Mailed This Month

6722	28 Quincy Street	Refurbish a detached garage.

Chevy Chase Village
Permitting and Code Enforcement Activity March 2016

Telephone Queries: +/- 140
Walk-Ins: +/- 58
Pre-Design Review Meetings: 2
Municipality Letters (issued to the County for new projects): 10
Administrative Building Permits Issued: 13 Administrative Building Permit; 1 Utility; 1 Portable Storage Unit; 2 Dumpster; 2 Dumpster Extensions
Licenses to Use the Public Right-of-Way: 1
Appeals: One Decision from a variance request granted at the March meeting was drafted, circulated, and approved; one variance application was continued from the February and March Board meetings for continuation in April; and two Special Permits were prepared for the April Board meeting. One Appeal of the Manager's Decision was filed and presented at the March Board meeting; staff continues work on that case. One Administrative Special Permit was approved, for demolition of a detached garage at a property on Grafton Street. One Administrative Special Permit is in process, for demolition of a dwelling at the property previously recorded as 108 East Melrose Street.
Tree Ordinance Board: One was approved at the March meeting, for removal of an Oak tree at 117 Grafton Street. One application was submitted for removal of two trees at 5502 Center Street, however the TOB requested consultation with the Board prior to issuing a report in that case.
Enforcement Incidents: Routine code enforcement patrol and site inspections of construction projects were conducted. Additionally:

- Staff continues enforcement of modifications which were made to approved plans without approval. The modifications might create a setback encroachment and might also put the project over the allowable lot coverage percentage. The resident was contacted, came in to discuss the violation and is preparing a variance request to maintain the structure. The resident must first obtain County approval for the added side portico.
- Staff continues to work with a resident to resolve sump pump discharge into the public right-of-way. The resident's contractor had installed the pump outlet in the tree box without approval and the discharge has created a health and safety issue and acceptable alternatives are being explored.

Tree Requests: 11 requests were made to the Village arborist for tree inspections pursuant to removals or tree protection plan requests for construction projects.
Administrative Tree Removal Permits: 2 permits were issued for removal of a total of four (4) trees.
Expired Permit Memos Sent: 1
Additional Activity:

- Staff continues editing of archive permit records.
- Staff has begun generating SOPs for standard permit applications.

-compiled by Ellen Sands, Permitting and Code Enforcement Coordinator

From the desk of…

Michael Younes, Director of Municipal Operations
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Chevy Chase, MD 20815
Phone (301) 654-7300
Facsimile (301) 907-9721
michael.younes@montgomerycountymd.gov
www.chevychasevillagemd.gov

Memo

To: Board of Managers

From: Michael W. Younes, Director of Municipal Operations

CC: Shana Davis-Cook, Village Manager

Date: 4/4/2016

Re: Update on Capital and Infrastructure Upgrade Projects

Below please find an update on the various capital and infrastructure upgrade projects currently under construction and in the planning stage:

		Status	Duration/ Remaining	Est. Start Date	Est. Completion Date
Village Initiated					
W. Kirke St. and Laurel Pkwy. Intersection Improvements		Construction	1 month	April 2016	May 2016
Village Website Redevelopment		Development	3 months	Ongoing	June 2016
In-Partnership with M-NCPPC					
Western Grove Park Development		Pre-Construction	6-9 months	June 2016	February 2017
Utility Upgrades					
Laurel Park Sewer Rehabilitation		Pre-Construction	1 month	TBD	TBD
Washington Gas Main Replacement – Bradley Lane		Permitting	TBD	TBD	TBD
PEPCO Tree Pruning and Removals		Permitting	2 months	Ongoing	May 2016
State Projects					
Connecticut Avenue Pedestrian Signal		Construction	1 month	Ongoing	April 2016

CHEVY CHASE VILLAGE
ESTABLISHED 1890

Connecticut Avenue Pedestrian Signal:

- No updates since last month's report.

PEPCO Tree Pruning and Removals:

- Village Arborist, Dr. Tolbert Feather, will brief the Board on PEPCO's proposed plan for tree pruning & removals within a portion of the Village.
- Pursuant to the Village's agreed upon policy with PEPCO, staff and the Village Arborist will meet with PEPCO representatives to review and approve the pruning work within the public rights-of-way.
- Any pruning or removals on private property must be agreed upon by the homeowner and PEPCO directly.
- Notice has been posted on the Village website, blast e-mail system and *Crier* advising of the pruning work.

Village Website Redevelopment:

- No updates since last month's report.

Washington Gas Main Replacement:

- No updates since last month's report.

W. Kirke St. and Laurel Pkwy. Intersection Improvements:

- The Village's contractor, A.B. Veirs, is set to begin work on April 27.
- All work is anticipated to be complete by mid-May.
- During construction there may be times where traffic travel around the Village Hall will be detoured during the daytime hours, however all closures will be removed following each work day.
- Notice has been posted on the Village website, blast e-mail system, *Crier* as well as direct mailed to the homes surround the Village Hall, outlining the construction schedule and what to expect.
- A dedicated page on the Village's website has also been set up to provide updates to residents.

Western Grove Park Development:

- Park & Planning is in the process of finalizing all contract, bonding and insurance paperwork with the recommended contractor.
- Construction is slated to get underway in the early June timeframe and is anticipated to last between 6-9 months.
- During construction the park will be closed and fenced off to all use for safety reasons.
- Prior to construction starting, notice will be posted on the Village website, blast e-mail system and *Crier* advising resident of the timeline and what to expect during construction.

Laurel Park Sewer Rehabilitation:

- No updates since last month's report.

Memo

To: Chevy Chase Village Board of Managers

From: Melissa Wiak, Community Liaison/Administrative Assistant

CC: Shana R. Davis-Cook, Village Manager

Date: April 4, 2016

Re: Village Hall Use for March 2016

Below is a chart that reflects the type and frequency of events held in the Village Hall during the month of March 2016:

Type of Event	Number of Uses	Total Net Revenue
Rentals (Private Events) —Birthday Party; Chevy Chase Elementary School Auction; Child Birthday Parties (2)	4	$1,750
Community Use — Board of Managers' Monthly Meeting; Parks & Greenspaces Committee Meeting; Public Safety Committee Meeting; Western Grove Park Friends Group Meeting	4	$0.00
Fee Waiver Use/Public Use —Chevy Chase @ Home Events (4); Section 5 Monthly Meeting; Chevy Chase Garden Club Monthly Garden Club; Chevy Chase Historical Society lecture	7	$0.00