

TOWN OF CHEVY CHASE
COUNCIL MEETING
TOWN HALL
September 10, 2019

COMMITTEE ORGANIZATIONAL MEETING (5:00-6:00 p.m.)

COUNCIL WORK SESSION (6:00-6:45 p.m.)

The Town Council will hold a work session to discuss administrative processes and procedures.

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
 - A. Call to Order
 - B. Pledge of Allegiance
 - C. Approval of Minutes of July 2019 Council Meeting
 - D. Acceptance of August 2019 Financial Report
 - E. [Town Manager's Report](#)
 - F. Public Comments

- II. VARIANCE HEARINGS (7:15-8:15 p.m.)
 - A. [Jacobus, 7110 45th Street, Rear Yard Retaining Wall](#)
 - B. [Maloney, 7700 Connecticut Avenue, LLC, Front Yard Fence](#)
 - C. [Merritt, 7702 Meadow Lane, Rear and Side Yard Setbacks for Covered Porch](#)

- III. TREE REMOVAL APPEAL HEARINGS (8:15-8:30 p.m.)
 - A. [Tran, 4411 Elm Street, Sugar Maple Tree in Public Right-of-Way and Beech Tree in Rear Yard](#)

- IV. COUNCIL DISCUSSIONS (8:30-9:15 p.m.)
 - A. Zimmerman Park Amenities & Improvements
 - B. Recycling Service
 - C. Bethesda Downtown Plan Implementation

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

MEMORANDUM

I-E

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: September 10, 2019

This report highlights some of the initiatives undertaken by Town staff over the past month. In the interest of brevity, I have not included ongoing staff functions. Please let me know if you have any questions or need additional information.

- Assisted with obtaining information related to the Purple Line project.
- Communicated with the State Highway Administration re. traffic and pedestrian safety improvements on East West Highway and Bradley Lane.
- Oversaw sustainable garden project.
- Continued to work with consulting engineer and landscape designer on plans for proposed staircase/pathway in Zimmerman Park.
- Continued to work with landscape designer on concept master plans for Zimmerman Park.
- Assisted the Long Range Planning Committee with tracking Bethesda redevelopment projects.
- Issued RFP for Town-wide traffic study and received seven bids. Began bid review process.
- Assisted Public Services Committee with responding to resident inquiries/requests re. public safety, traffic and street lighting.
- Researched recycling service options.
- Began fall infrastructure repairs.
- Continued oversight of Washington Gas main replacement work.
- Continued oversight of FY19 audit.
- Worked with Community Relations Committee on special events.

STAFF REPORT

II-A

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Jacobus, 7110 45th Street, Rear Yard Retaining Wall
DATE: September 10, 2019

Todd and Shauna Jacobus, 7110 45th Street, propose to install a retaining wall in their rear yard adjacent to the rear property line. The wall would have a maximum height of 2.5 feet. Town building regulations prohibit the installation of a retaining wall measuring more than 1 foot in height within 2 feet of a rear lot line; therefore, a variance is required.

Background:

As of September 6, 2019, the Town has received one email and one letter, attached, supporting the variance request.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Request:

1. The applicants' property has unusual topographical conditions. There is an upslope at the very rear of the property. The owners desire to cut into that slope to install a wall to maintain a finished pool elevation that matches the elevation of the existing garage door.
2. Approval of the variance is requested because conforming to the Town's building ordinance would cause peculiar or unusual practical difficulties. The upslope of the rear yard will require a wall higher than 1 foot.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The wall is only 18 inches higher than allowable. The neighboring properties will not be impacted.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The wall needs to be 2.5 feet tall in order to allow the pool to be installed at the proper elevation.
5. The improvements do not impair the general plan of the Town. The wall is on the rear property line and will not be seen.

STAFF REPORT

II-B

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Maloney, 7700 Connecticut Avenue, LLC, Front Yard Fence
DATE: September 10, 2019

Bill Maloney, representing 7700 Connecticut Avenue, LLC, proposes to install a fence in the front yard of the subject property adjacent to Connecticut Avenue. The fence would have a maximum height of 6 feet. Town building regulations prohibit the installation of fences in front yards; therefore, a variance is required. The applicant withdrew a variance request for a front yard fence and wall at the November 14, 2018 Council meeting.

Background:

As of September 6, 2019, the Town has not received any correspondence related to the requested variance.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicant's Claims for the Variance Request:

1. The applicant's property is a corner lot located at the intersection of Connecticut Avenue and Blackthorn Street. Connecticut Avenue is a roadway classified as a major highway by the Bethesda-Chevy Chase Master Plan. This represents an extraordinary condition.
2. Approval of the variance is requested because conforming to the Town's building ordinance would cause undue hardship. The Town's building ordinance does not allow for proper screening along the Connecticut Avenue frontage, subjecting the property to noise generated by traffic and public view into the rear yard.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The portion of the proposed fence along the property line adjacent to 7702 Connecticut Avenue would connect to a privacy fence proposed in the rear and side yards of the subject property. The proposed fence along Connecticut Avenue would be set back approximately 10.8 feet from the existing sidewalk and will not obstruct pedestrian or vehicular site lines needed for safety.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The proposed fence is necessary to reduce the noise that is generated from Connecticut Avenue and is the minimum height necessary to provide screening for the rear yard.

5. The improvements do not impair the general plan of the Town. The property is located on the perimeter of the Town and will not impact residents of the community. The fence is set back from the sidewalk and will be screened by vegetation.

STAFF REPORT

II-C

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Merritt, 7702 Meadow Lane, Rear and Side Yard Setbacks for Covered Porch
DATE: September 10, 2019

Hugh and Regina Merritt, 7702 Meadow Lane, propose to construct a covered porch on the south side of their property. The porch would replace an existing deck and requires the following variances:

- The proposed porch projects 6.6 feet into the 14.2-foot required side yard setback. Town building regulations allow porches to project no more than 3 feet into a side yard setback; therefore, a variance of 3.6 feet is required.
- The roof over the proposed porch projects 7 feet into the 14.2-foot required side yard setback. Town building regulations allow porch roofs to project no more than 3 feet into a side yard setback; therefore, a variance of 4 feet is required.
- The roof over the proposed porch projects 8 feet into the 20-foot required rear yard setback. Town building regulations allow porch roofs to project no more than 3 feet into a rear yard setback; therefore, a variance of 5 feet is required.

Please note that the site plan shows only the deck area of the porch. The porch roof overhangs the porch slightly as shown in the elevations.

Background:

As of September 6, 2019, the Town has not received any correspondence about the variance request.

Staff note: The following assertions summarize materials provided by the applicant in support of the variance request. Their inclusion in the Staff Report does not intend to convey staff support for the approval or denial of the variance request. The applicant should indicate to the Council if any arguments have been misrepresented. Council should consider the entire record in considering the variance request.

Applicants' Claims for the Variance Requests:

1. The applicants' property is exceptionally shallow and unusually shaped. The lot is extremely shallow. The angled rear lot line limits the possible building footprint for a covered porch given the Town's setback requirements.
2. Approval of the variances is requested because conforming to the Town's building ordinance would be impractical, cause peculiar or unusual practical difficulties, and cause undue hardship. Due to the size and shape of the lot, the only functional location for a small covered porch accessible from the main level is on the south side of the house. The covered

porch will replace the existing deck. A small side yard setback variance is needed for the porch and porch roof. A rear yard setback variance is needed for the porch roof.

3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The proposed covered porch will have a negligible effect on the neighbors to the south as the covered porch will replace the existing deck.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The shallow lot and the 20-foot rear yard setback requirement preclude constructing any reasonable covered porch in the rear yard (or onto the back of the home). The driveway and the north side yard setback requirement preclude construction on the north side of the house. The proposed 15' wide covered porch is a minimal request and still allows for the side setback to be 7.7 feet (*Staff note: 7.2 feet for the roof*) from the side property line.
5. The improvements do not impair the general plan of the Town. The request is minimal, and a front yard setback variance is not requested.

STAFF REPORT

III-A

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Tran, 4411 Elm Street, Sugar Maple Tree in Public Right-of-Way and Beech Tree in Rear Yard
DATE: September 10, 2019

Hieu Tran, 4411 Elm Street, has filed an appeal of denied tree removal permits for a sugar maple in the public right-of-way and for a beech tree in the rear yard.

Background:

On August 13, 2019, the applicant filed a permit application with the Town to remove a sugar maple tree in the public right-of-way in front of the subject property. The Town Manager found that the tree is a canopy tree that is not dead, dying, in danger of falling, or a hazard to the safety of persons or property; therefore, the permit application was denied.

Staff note: The sugar maple tree is in the public right-of-way and is subject to the Maryland Roadside Tree Law, which allows the removal of trees that:

- (1) Eliminate a hazard to property, public safety, or health;*
- (2) Improve or prevent a deteriorated tree condition; or*
- (3) Improve the general aesthetic appearance of the right-of-way.*

The Town has been granted a permit from the State of Maryland to administer its own public tree maintenance program, including tree removals, under the Roadside Tree Law. In addition to the factors below, the Council should consider whether removal is appropriate under the standards above.

On August 20, 2019, the applicant filed a permit application with the Town to remove a beech tree in the rear yard of the subject property. The Town Manager found that the tree is a canopy tree that is not dead, dying, in danger of falling, or a hazard to the safety of persons or property; therefore, the permit application was denied.

Procedure:

The Town Council shall consider the following factors in deciding whether to approve or deny an appeal request for a denied tree removal permit. The record of the appeal is attached.

1. The reasons cited by the applicant for wanting to remove the canopy tree.
Staff note: The applicant claims that removal of the sugar maple tree is necessary to allow for safe ingress and egress on the property. The applicant claims that both the sugar maple tree and beech tree are at risk of falling due to heavy rains.
2. The applicant's intention to plant replacement trees, with consideration of the number, size and desirability of species, and with a minimum goal of replacing the canopy tree to be removed.
Staff note: The applicant proposes to plant two sugar maple (or similar species) trees in the rear yard as replacements.

3. The applicant's intention to retain and protect existing trees.
Staff note: Two trees on the public right-of-way will be protected in accordance with Town permitting requirements. Other trees on the applicant's private property have been approved for removal by the Town.
4. The facts in support or opposition presented by town residents.
Staff Note: The Town has received correspondence from six residents (attached) relating to the appeals.
5. Information provided by the town arborist.
Staff note: The denied tree removal permit applications are attached. They include detailed tree condition reports. The Town arborist also has prepared a summary sheet detailing the other trees on the property approved for removal.
6. The extent to which no alternative to canopy tree removal exists that would allow the proposed development, construction, or land use otherwise permitted under the town building code.
7. The desirability of preserving a canopy tree by reason of its age, size or outstanding qualities, including uniqueness, rarity or species.
Staff note: A description of both trees from the Manual of Woody Landscape Plants is attached.
8. The overall effect on the tree canopy of the adjacent properties, the neighborhood and the town.
9. The aggregate or cumulative effect of the proposed canopy tree removal(s), including any and all canopy tree removals from the property within the prior two-year period.
Staff note: No canopy trees have been removed from the property in the past two years. Other trees proposed for removal have been approved based on their condition/species.

Attachments:

- Attachment 1: Appeal Request and Supporting Documents from the Appellant
- Attachment 2: Denied Tree Removal Permit Applications
- Attachment 3: Correspondence from Residents
- Attachment 4: Tree inventory and tree protection plan for the lot from the Town Arborist
- Attachment 5: Approved tree removal permit for other trees on the lot
- Attachment 6: Information on Sugar Maples and Beech trees from the Manual of Woody Plants
- Attachment 7: Notice of Appeal