

**Unofficial Guide to Land Use**  
**in the**  
**Town of Chevy Chase, Maryland**



**Town of Chevy Chase  
Land Use Committee**

**July 2019**

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## **Introduction**

This handbook outlines the local rules that govern development activities in the Town of Chevy Chase. It is intended to provide Town residents an easy-to-use, non-technical manual explaining the basic Town requirements relevant to construction and landscaping activities on your property.

From the very beginning, the development of the Town of Chevy Chase has been guided by a specific vision of a serene and elegant community. The original architect envisioned open green areas and single family houses set back from winding streets, with a sheltering canopy of tree cover. Over the years, the realization of this vision has produced the Town's unique character. Today, this vision is maintained both through covenants and by land use ordinances in the Town Code. The land use provisions allow the Town to continue to grow and develop without losing the characteristics that make it a lovely and desirable place to live.

Town residents have recently reaffirmed the importance of the Town's distinctive physical character. In 2006, the Town's Visioning Committee developed a comprehensive assessment of residents' feelings about the Town's character and future development. The resulting strategic plan, adopted in 2007, articulates the community's goals, core values, and underlying principles. Two identified principles are: (1) the Town should protect its distinctive neighborhood character; and (2) the Town should serve as a good steward of its natural environment. The Town's land use provisions implement these elements of the Town's strategic plan.

Please note that this is an unofficial guide, which does not attempt to provide or substitute for the full legal detail contained in the Town code. For the specific and full legal requirements governing development in the Town, please consult the Town Code and Town staff.

### **What's in this Chapter?**

- What Do I Need to Know about How Development is Regulated in the Town?
- When Do I Need a Town Building Permit?
- What Other Permits and Plans May Be Required When Building in the Town?

- What Is the Process to Keep Neighbors Informed About Development Projects in Town?
- How Should I Begin a Project in the Town?
- Are There Tips that Will Help My Project Go Smoothly?
- What Are the Penalties for Non-Compliance with the Town Code?
- Project Checklist

## **What Do I Need to Know about How Development is Regulated in the Town?**

Montgomery County and the Town of Chevy Chase regulate development on your property in the Town. The regulations of the County are broader in scope than those of the Town, covering more activities and often in greater detail. Most construction projects require building permits. In most cases you'll need two permits, one from the County and another from the Town. This means that your project must satisfy both County and Town regulations. Whenever the County requires a building permit, you must get the County permit before the Town will issue its permit.

### **When Do I Need a Town Building Permit?**

A Town building permit is required to do such things as erect a building, fence or front yard hedge, to alter or demolish a building, to install a driveway, pool or tennis court, or to disrupt a public right-of-way. The *Permitting* chapter provides a complete list of activities requiring a Town building permit.

### **What Other Permits and Plans May Be Required When Building in the Town?**

The only additional Town permit that might be required to develop your property is a Tree Removal Permit. You will need to get a Tree Removal Permit if you propose to remove a regulated tree on your property or if your project threatens a tree's health. The Town vigilantly protects canopy trees. See the *Trees* chapter for details.

You will have to file a Tree Protection Plan with your Town building permit application if your project potentially threatens the health of any regulated tree. See the *Trees* chapter for details.

If your project will create more impervious surface areas on your property, you may need to file a Water Drainage Plan with your Town building permit. See the *Water Drainage* chapter for details.

## **What Is the Process to Keep Neighbors Informed About Development Projects in Town?**

Certain development projects and variance requests require that public meetings be held. In particular, projects that involve the proposed demolition of a house, the proposed construction of a new house or of an addition or accessory building that exceeds certain dimensions require a Pre-Permit Application Consultation (Pre-PAC) meeting and a Site Management meeting. Both the Pre-PAC and the Site Management meetings are public meetings between the property owner, Town staff, and interested neighbors and other Town residents. At the Pre-PAC meeting, the property owner presents an overview of the proposed project to Town staff and Town residents so that they can be informed about the scope of the project and can comment on it. At the Site Management meeting, management of the construction site is discussed. Members of the public may attend and participate in both of these meetings. When a Pre-PAC meeting is required, it must be held before the Town building permit application can be filed. When a Site Management meeting is required, it must be held before the Town Manager can issue the Town building permit. See the *Permitting* and *Site Management* chapters for more details.

Generally variance requests are considered by the Town Council at a public hearing, although the Town can process certain requests through an administrative variance process. The public is notified in advance of the hearing and may attend and participate. See the *Variances* chapter for more details.

## **How Should I Begin a Project in the Town?**

Consider consulting with Town staff in the initial planning phases of your project. They can help you better understand how Town regulations impact your project. Early and regular consultations with Town staff will save you time, effort, and money.

You also should check the Town's web site. Numerous documents are posted on the site explaining the permitting process and the various aspects of the Town Code. The web site also provides useful tools for calculating such things as the gross floor area of a building (a required measurement for certain building permits) as well as front, rear and side setbacks.

We also suggest you read the sections of the Town Code that pertain to your project. The Town's Code of Ordinances can be linked to from the Town's web site. To help you locate the relevant parts of the Town Code, references to the specific Code sections are provided throughout each chapter of this Handbook.

### **Are There Tips that Will Help My Project Go Smoothly?**

In some cases, the Town Code requires that you share your construction plans with your neighbors, but even in the absence of a formal requirement to do so, we urge you to keep your neighbors informed about your development plans. They almost certainly will be interested in any activity that can affect the use and enjoyment of their property. A friendly exchange of information early in the planning phase of a project may prevent problems later on. For the same reason, during the actual construction phase of a project, being considerate to your neighbors and trying to reduce whatever inconveniences they might be experiencing as a result of the activity (such as noise, dirt, dust and aberrant water drainage) could go a long way toward preserving good will.

### **What Are the Penalties for Non-Compliance with the Town Code?**

If work on a project violates provisions of the Town building permit or Town Code, or jeopardizes public health or safety, the Town Manager can issue a stop work order and/or a citation. The stop work order will halt further work until the violation is corrected or the unhealthy or unsafe condition is eliminated. In such a case, you may be required to submit a written plan describing the actions to be taken to resolve the problem or problems. A citation can be issued for a municipal infraction or a misdemeanor depending on the nature of the violation, and could subject you to fines, imprisonment, or both.

## Project Checklist

- Educate yourself before you start your project. Most projects must comply with both the Town's and Montgomery County's building regulations. Most projects will require building permits issued from both entities. Note that when a Montgomery County permit is required, a Town permit cannot be issued until you receive your County permit.
- For full details about Town building regulations, read the relevant sections of the Town Code (the pertinent sections of the Town Code are referenced in each of the following chapters and listed at the end of each chapter). If you have questions, search the Town's web site for relevant information or call the Town Office for assistance.
- Figure out if your proposed project is feasible, before you spend a lot of time and money on plans, surveys, etc. This is particularly important advice when you are planning to construct a new house, addition or accessory building. In such cases we suggest you estimate your front, side, and rear setbacks, how much more of your lot can be covered by buildings, and how much additional gross floor area can be built on your lot. Town staff can help with such estimates.
- If your project appears feasible, get the real numbers. For major projects such as constructing a new house, addition, or accessory building, you will need a boundary survey accurate to one-tenth of a foot prepared by a land surveyor. In addition, you may need to have an established building line calculation done to determine your front, side, and rear setbacks. Other calculations that may be required include lot coverage, building height, and gross floor area. Your architect can give you an idea what calculations will be needed, and who is qualified to perform them.
- If your project will add 500 or more square feet to any floor of your house, you are required to have a Pre-Permit Application Consultation (Pre-PAC) meeting. We suggest you avoid making detailed plans until after the Pre-PAC meeting has been held. Only schematic (conceptual) drawings are needed for the Pre-PAC meeting. Waiting to draw up detailed building plans until after the Pre-PAC meeting can save you time and money as problems with your plans related to the Town code may be identified at the meeting and your neighbors may also make suggestions you would like to incorporate.
- If your project (together with any other development project within the past two years) adds (or will add) 700 or more square feet of

impervious surface to your lot, you are required to file a Water Drainage Plan with the Town.

- If you propose to cut down any regulated trees for the project, you are required to obtain a Tree Removal Permit. If you're not allowed to remove the trees, you'll need to develop a building plan that preserves them.
- If some aspect of your proposed project violates Town or County building regulations, you'll need to revise your plans or request a variance.
- Keep your neighbors informed of your plans. This can prevent problems and may yield useful comments and suggestions.

# Chapter 1

## The Town Permitting Process

Most construction projects require that building permits be obtained from both Montgomery County and the Town of Chevy Chase. There are some projects that require only a Town building permit.

This chapter identifies when a Town building permit is required and how to get one. It also provides a general description of the documents needed. The documents described in this chapter vary depending on the type of project involved as well as in their technical specifications. For this reason, you should confirm the required permit submittal documents by checking the Town web site or by consulting with knowledgeable Town staff.

### What's in this Chapter?

- When Do I Need a Town Building Permit?
- When Do I Also Need a Building Permit Issued by Montgomery County?
- How Do I Apply for a Town Building Permit?
- What Documents Do I Need to Submit with My Town Building Permit Application?
- What Will a Town Permit Cost Me?
- When a Performance Bond is Required, What Amounts are Involved?
- When Can I Apply For a Town Building Permit?
- When Will My Town Building Permit Be Issued?
- What is a Pre-Permit Application Consultation and When is it Required?
- When is a Site Management Meeting Required? If So, What Does It Involve?
- What If My Town Building Permit Application Isn't Approved?
- When Must the Work Authorized By a Town Building Permit Begin and Be Finished?

- Can I Modify My Project Plans Once They Have Been Approved and a Building Permit Issued?
- What is a Tree Protection Plan and When Do I Need One?
- When Do I Need a Tree Removal Permit?
- What is a Water Drainage Plan and When Do I Need One?
- Relevant Provisions of the Town Code

### **When Do I Need a Town Building Permit? (Sec. 4-2(a))**

You need a Town building permit to do any of the following:

- Erect a *building*. This includes, among other things:
  - Building a new house
  - Constructing a new accessory building (garage, greenhouse, garden shed, gazebo, etc.)
  - Building an addition to an existing house or accessory building
- Make material structural alterations or additions to a house or accessory building. This includes, among other things:
  - Increasing the footprint of a structure
  - Adding a second story to a one-story section of an existing house
  - Installing or replacing a bay window
  - Installing a dormer
  - Adding, replacing, enlarging, or roofing an existing porch, deck, or stoop
  - Enclosing a porch, (including screening)
  - Adding or replacing an outside stairway, steps, chimney, etc.
- Demolish a house or accessory building (in whole or in part)
- Erect a new or replacement fence, guardrail and certain handrails
- Erect a new or replacement wall
- Plant a front yard hedge

- Build a new or replacement deck
- Install a patio of 700 or more square feet
- Install a pool, outside hot tub, or tennis court
- Install an access ramp or wheelchair lift
- Install a new driveway
- Enlarge or replace an existing driveway
- Disrupt the public right-of-way (such as streets, sidewalks, curbs, gutters and grassy areas)
- Place a dumpster or portable storage unit on public or private property
- Erect or install a structure, tree, earth berm, hedge, shrubbery, or other plant growth (except grass, ground cover, flowers, or similar plantings) along any sidewalk, street, or alley
- Install overhead or underground wires, cables, hoses, pipes, or similar facilities on public property devoted to private use. This includes wires and pipes for underground sprinkler systems and invisible dog fences. A Town building permit is not required for public utility work.

### **When Do I Also Need a Building Permit Issued By Montgomery County?**

At the time of this writing, all of the above activities require a permit issued by Montgomery County, except:

- Planting a hedge
- Building a replacement fence
- Building a wall that is less than 48 inches in height (measured from the top of the wall to the base of the footer)
- Installing a patio larger than 700 square feet
- Installing a new driveway
- Enlarging or replacing an existing driveway
- Disturbing a public right-of-way

- Installing a dumpster or portable storage unit
- Installing plantings in a public right-of-way
- Installing overhead or underground wires, cables, hoses, pipes, or similar facilities on public property devoted to private use.

When a Montgomery County permit is needed, the Town will issue its building permit only *after* Montgomery County has issued its permit; however you may apply for your Town permit at any time.

### **How Do I Apply for a Town Building Permit? (Sec. 4-2(d))**

To apply for a Town building permit, you must complete the Town building permit application and submit it along with all required documents, and fees to the town. A Town building permit application can be obtained from the Town Office or from the Town’s web site. The web site contains a wide variety of information about the permit process. It is recommended (but not required, except as described below) that you consult with Town staff in the initial planning phases of your project so you can be fully informed about how Town ordinances might impact your work. A consultation with staff could save you time, effort, and money.

Projects often involve several types of activities (demolition, having a dumpster or storage container, disruption of the public right-of-way, construction, etc.), each of which requires a permit. Whenever possible, the Town tries to combine all construction activities into one permit; however, obtaining separate permits may make scheduling the activities easier (for example, you may want to get a permit for a storage container or dumpster while you wait for your County and Town building permits to construct an addition).

If your project involves adding 500 square feet or more to any floor of your house or constructing a new house, you are required to have a Pre-Permit Application Consultation (Pre-PAC) before you apply for the Town building permit. See the Pre-Permit Application Consultation Meeting section later in this chapter and the *Pre-Permit Application Consultation* chapter for more details.

### **What Documents Do I Need to Submit with My Town Building Permit Application? (Sec 4-2)**

The type of construction activity determines what documents must be submitted with your building permit application. The documents that typically are required by a given project are described below, but be sure

to check with Town staff to establish which documents you will need to support your application, and what the required documents must include to be considered complete.

- Construction of additions, new houses, or accessory buildings: Besides the application itself, the application fee, performance bond, and building condition form, you will need an engineered site plan, a boundary survey, a complete set of construction (architectural) drawings, a site management plan, gross floor area calculation (prepared by a Maryland licensed civil engineer, architect, or surveyor), a Tree Protection Plan, and, when necessary, a Water Drainage Plan.
- Construction of a new or replacement wall, deck, porch, patio of 700 square feet or more, or to install a nonvegetative front yard surface: All of the documents listed above are required, except the gross floor area calculation.
- Construction of a new or replacement fence or the planting of a front yard hedge: Besides the application itself, the application fee, and a building condition form, you will need a description of the fence and a boundary survey or plat showing the location of the fence or hedge.
- Placing a dumpster or portable storage unit on your property: Besides the application itself, the application fee, performance bond, and building condition form, you will need a plat or survey showing the proposed location of the dumpster.
- Disturbing a public right-of-way: Besides the application itself, the application fee, performance bond, and building condition form, you will need a complete set of construction drawings. A public right-of-way usage license also will be required, except for work confined to curb cuts.

## **What Will a Town Permit Cost Me?**

Town permit fees vary, depending on the type of project. They also can change over time. Be sure to check with Town staff to determine the current fee for your project. At the time of this writing the fees are as follows:

- \$3,000 for new home construction
- \$1,000 for addition with footprint increase greater than 750 square feet
- \$ 500 for addition with footprint increase of 501-750 square feet.
- \$250 for addition with footprint increase of 201-500 square feet

- \$150 for addition with footprint increase of 0-200 square feet
- \$500 for main building demolition
- \$50 for accessory building demolition
- \$150 for constructing or altering an accessory building, deck, or pool
- \$100 for new fence, wall, hedge, berm, guardrail, or driveway
- \$50 for replacement fence, wall, hedge, berm, guardrail, or driveway
- \$100 for a step, stoop, terrace, porch, porch covering, bay window, oriel entrance, vestibule, balcony, cornice, eave, outside stairway, chimney, air conditioner, heat pump, generator, access ramp, or wheelchair lift.
- \$100 for public right-of-way disturbance
- \$50 for dumpster/container

### **When a Performance Bond is Required, What Amounts are Involved?**

The size of a given performance bond that needs to be posted for a project can change over time, but the current amounts are as follows:

- \$2000 for main building demolition and new construction
- \$500 for accessory building demolition
- \$1000 for an addition that adds more than 500 square feet to the footprint of a structure
- \$500 for an addition that adds 500 square feet or less to the footprint of a structure
- \$1000 for a public right-of-way disturbance
- \$500 for dumpster/container, wall, accessory building, deck, pool, steps, stoop, terrace, porch, balcony, outside stairway, chimney, or driveway

### **When Can I Apply For a Town Building Permit? (Sec. 4-2(b))**

Except for those building projects that require a Pre-Permit Application Consultation (Pre-PAC) meeting (described below), you can apply for a building permit at any time. After you submit your Town building permit application and all accompanying documents, the Town staff will review these and notify you if any element of the application does not meet Town standards. The Town staff can also assist you in understanding how you can bring your application into compliance.

## **When Will My Town Building Permit Be Issued? (Sec 4-10)**

The Town building permit will be issued after any required Montgomery County permits have been issued and after all Town requirements have been met. If a building permit is issued, it can contain conditions that the Town Manager deems necessary to assure compliance with the Town Code and to protect the public health, safety and welfare.

## **What is a Pre-Permit Application Consultation and When is it Required? (Sec. 4-2(b))**

Town building regulations require that a Pre-Permit Application Consultation (Pre-PAC) meeting be held for certain types of construction projects. A Pre-PAC is a meeting at which you present an overview of your proposed project to Town staff and interested Town residents. The meeting has several goals. The primary goal is to provide an early opportunity for Town staff and Town residents (particularly neighbors) to view conceptual plans for your project. Sharing your plans early on with Town staff can help identify elements of your design that do not comply with Town building regulations, thus saving you time and money. Sharing your plans with neighbors helps maintain good relations and may generate helpful suggestions. This could also enable you to act on concerns they may have before it's too late to revise your plans. You are not obligated to act on any of the suggestions made at the Pre-PAC meeting, other than those that involve code or regulatory issues that were identified.

A Pre-PAC meeting is required when you propose to:

- Construct a new house or accessory building in excess of 500 square feet;
- Construct an addition or an external alteration to a house or accessory building that adds 500 or more square feet to an existing floor; and
- Demolish more than 50 percent of the exterior walls of a house.

The Pre-PAC meeting must be held before you apply for your Town building permit, preferably at the stage where you are reviewing schematic drawings of the project. Please see the *Pre-Permit Application Consultation* chapter for a full description of this meeting.

To trigger the Pre-PAC meeting, you will file a set of documents called the Preliminary Plan with the Town. The Town will then schedule the Pre-

PAC meeting and notify your neighbors and other Town residents of the meeting should they wish to attend.

### **When is a Site Management Meeting Required? If So, What Does It Involve? (Sec. 4-2(c))**

Whenever a Pre-Permit Application Consultation (Pre-PAC) meeting is required, a Site Management meeting also is required. A Town building permit can be issued only after the Site Management meeting has been held. The meeting occurs after Town staff has reviewed your building permit application and all accompanying documents and determined that your project is in compliance with Town building regulations. The meeting typically is held just prior to issuance of your Town building permit. The purpose of the meeting is to discuss site management issues and any site management conditions that will be incorporated in your Town building permit. Advanced notice of the Site Management meeting will be given to your neighbors and to other Town residents, who may attend and participate. See the *Site Management* chapter for details.

### **What If My Town Building Permit Application Isn't Approved? (Sec. 4-2(e))**

If deficiencies in your Town building permit application are found, the Town staff will identify them for you, and will work with you to resolve them, when possible. If your project does not conform to the Town's building code, you have the option of filing for a variance that, if approved, would allow you to proceed with your proposed project. An application for a variance can be obtained from the Town Office or from its web site. For more details, see the *Variances* chapter.

### **When Must the Work Authorized By a Building Permit Begin and Be Finished? (Sec. 4-2(h))**

Work on construction projects generally, and buildings, alterations, and additions specifically, must begin within 6 months of the date your Town permit is issued. These projects must be completed by the date you indicated in your Town building permit application but not later than 12 months from the date the permit was issued. The Town Manager is authorized to grant extensions, when warranted.

For all other types of projects, the details involving a project's commencement and completion are left up to you and whatever you may have indicated in your application.

Note that a permit can be revoked by the Town Manager if work has stopped for 30 days.

### **Can I Modify My Project Plans Once They Have Been Approved and a Building Permit Issued? (Sec. 4-2(f) & (g))**

Once a permit is issued, the plans and specifications may be modified only with the approval of the Town Manager. A formal application to amend your permit must be filed. This application form is available in the Town Office or on the Town web site.

### **What is a Tree Protection Plan and When Do I Need One? (Secs. 29-3, 29-11, 29-12, & 29-13)**

The Town is vigilant in its protection of trees located on both private and public property in the Town. As part of this commitment to maintaining the Town's green canopy, you are required to submit a Tree Protection Plan with your Town building permit application if your work potentially threatens a canopy tree. A Tree Protection Plan describes the measures that will be implemented to protect trees on your property, on neighboring properties (close to the property line), and in the public right-of-way from any potential harmful effects of your construction project. The Town's Arborist can assist you in developing your Tree Protection Plan. See the *Trees* chapter for more information and consult the relevant provisions of the Town Code or the Town staff.

### **When Do I Need a Tree Removal Permit? (Secs. 29-3, 29-4, 29-6, 29-7, 29-9, & 29-10)**

If a regulated tree cannot be protected from your proposed construction activities or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit if the tree is not a canopy tree, or if the tree is dead, dying, or hazardous. If the Town Manager denies your permit request, you have the option of appealing the decision to the Town Council. If the Town Council denies the permit, you will need to modify your plans or appeal the decision to the Maryland Courts. You can get a Tree Removal Permit application from the Town Office or from its web site. See the *Trees* chapter for further information.

### **What Is a Water Drainage Plan and When Do I Need One? (Secs. 28-2 & 28-3, 28-4, 28-5)**

A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of the storm water generated by your proposed development on neighboring properties. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's storm water system. If your proposed project (together with any other development project within the past 2 years) will add 700 or more square feet of impervious surface to your lot, you must have a civil engineer or land surveyor develop a Water Drainage Plan for review and approval by the Town. The approved plan is made a condition of the building permit. Details about the technical requirements of the water drainage ordinance can be found in the Town Code and on the Town's web site. You are encouraged to consult with Town staff about these requirements. See the *Water Drainage* chapter for more information.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)

### In Chapter 28 (Water Drainage):

- Sec. 28-2 (Definitions)
- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)
- Sec. 28-5 (Water drainage criteria, methodologies and construction specs)

### In Chapter 29 (Urban Forest):

- Sec. 29-3 (Trees included)
- Sec. 29-4 (Permit required)
- Sec. 29-6 (Permit standards)
- Sec. 29-7 (Appeals)
- Sec. 29-9 (Factors to be considered in evaluating an appeal)
- Sec. 29-10 (Judicial review of a decision of the Town Council)
- Sec. 29-11 (Protection of trees at risk)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 2

### The Pre-Permit Application Process

Town building regulations require that a Pre-Permit Application Consultation (Pre-PAC) meeting be held for certain types of construction projects. A Pre-PAC is a meeting at which you present an overview of your proposed project to Town staff and interested Town residents. The goals of the meeting are to:

- Provide an early opportunity for Town staff and Town residents (particularly neighbors) to view conceptual plans and elevations for your project before you apply for Montgomery County and Town building permits
- Foster early identification of potential design issues through a non-confrontational forum
- Foster resolution of issues through open exchange and dialogue before designs are finalized
- Educate and sensitize all parties to each other's concerns

You are not obligated to act on any of the suggestions made at the meeting, other than those that identify Code or regulation issues. However, Town staff and residents may provide useful information and suggestions. For example, one resident relocated a bathroom window in his proposed project after his neighbors pointed out that one of their side windows would look directly into the bathroom window in its proposed location. Another neighbor modified his deck design when a neighbor pointed out that the proposed deck would abut and overlook their patio, thus giving neither neighbor privacy when outdoors.

For details about the Permit Process generally, see the *Permitting* chapter.

#### **What's in this Chapter?**

- What Construction Projects Require a Pre-Permit Application Consultation Meeting?
- When Does the Pre-Permit Application Consultation Take Place?
- What Generally is Involved in the Pre-PAC Meeting?

- What is a Preliminary Plan and What Must It Include?
- Are Suggestions Made at the Pre-PAC Meeting Binding?
- Relevant Provisions of the Town Code

## **What Construction Projects Require a Pre-PAC Meeting? (Sec. 4-2(b))**

The Town's Pre-PAC meeting is required for three types of projects:

- Construction of a new house or accessory building in excess of 500 square feet
- Construction of an addition or external alteration to an existing house or accessory building that adds more than 500 square feet to an existing floor of the building
- Demolition of more than 50 percent of the exterior walls of a house.

## **When Does the Pre-PAC Take Place? (Sec. 4-2(b))**

Town regulations require the meeting to occur before you can submit your Town building permit application. This means that the Pre-PAC can take place any time after you have the schematic (conceptual) drawings of your project. Holding the meeting as early as possible can result in substantial savings of time and money. At the meeting, the Town staff may identify design issues that must be addressed or your neighbors may make useful suggestions that you would like to incorporate in your final plans.

## **What Generally is Involved in the Pre-PAC Meeting? (Sec. 4-2(b))**

Before the Pre-PAC can be held you are required to submit a Preliminary Plan to the Town. Only a few documents are required to be filed (see below). Town staff will work with you to schedule the Pre-PAC meeting, to which your neighbors and other Town residents are invited. At the Pre-PAC meeting, you will present an overview of your project, after which Town staff and Town residents may ask questions and make comments. It is helpful, but not required, if your architect can attend to answer questions about the proposed design. The meeting is intended to provide a constructive forum for the timely and civil exchange of information, for the benefit of all parties.

## **What is a Preliminary Plan and What Must It Include? (Sec. 4-2(b))**

A Preliminary Plan is the set of documents that you submit to the Town for use at the Pre-PAC meeting. The Preliminary Plan must include the following items:

- Schematic (or conceptual) floor plans and building elevations
- Preliminary site plan showing front, rear and side setbacks and the location of impacted trees, the public right-of-way, proposed structures, proposed walkways, driveways, retaining walls, and any other impervious surfaces structures
- Context sketch, photograph or other image showing the planned structures from the front and rear, including the elevations, in relation to existing structures on adjoining and confronting lots.

Be sure to consult with Town staff about the above requirements (plus any others that might be imposed) and visit the Town's web site, which contains material that will help guide your work.

## **Are Suggestions Made at the Pre-PAC Meeting Binding?**

Generally they are not. If any elements of your proposed design are not in compliance with Town building regulations, then those elements must be changed, but your implementation of any other suggestions is voluntary.

## **Relevant Provisions of the Town Code**

In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)

## Chapter 3

### Managing the Construction Site

Construction site management is an important consideration in planning any activity that may potentially disrupt a public right-of-way, affect the use and enjoyment of neighboring properties, or threaten public safety and health. Being considerate to your neighbors and minimizing inconveniences they may experience as a result of project construction always is appreciated. The Town takes very seriously its responsibility to protect the public interest and therefore regulates construction activities. Those regulations are discussed in this chapter.

#### What's in this Chapter?

- What is Construction Site Management?
- Who Imposes Site Management Conditions?
- What Elements are Considered When Imposing Site Management Conditions?
- Do Opportunities Exist to Discuss Concerns about Potential Site Management Conditions?
- How are Streets and Sidewalks Protected from Construction Activity?
- Do Noise Restrictions Exist?
- Relevant Provisions of the Town Code

#### What is Construction Site Management?

Construction site management involves controlling construction activities in a way that preserves the environmental, aesthetic, and social landscape of the neighborhood and the Town. Building permits for construction projects that typically contain site management conditions -- requirements involving site management that must be satisfied before work can begin on a project or for work to continue once the work has started. The Town has adopted a list of standard Site Management Conditions for all permits. Additional site management conditions can include such things as:

- Prohibiting or limiting the parking of contractors' or other construction-related vehicles or equipment on sidewalks or in the public right-of way
- Limiting the locations upon private property where contractors' or other construction-related vehicles or equipment may be parked
- Limiting the locations upon which construction materials may be stored
- Limiting the locations upon which portable toilets may be placed and maintained, including requiring screening of these facilities
- Limiting the locations upon which construction debris may be stored, whether or not such debris is contained

These are just examples. Other types of conditions may be imposed by the Town if they are deemed necessary to protect public health, safety or welfare.

### **Who Imposes Site Management Conditions? (Sec. 4-2(e))**

Some site management conditions including tree protection fencing, and the Town's standard permit conditions are automatically incorporated by reference into an approved Town building permit. In addition, the Town may impose additional site management conditions to provide additional protection to the public health, safety, and welfare. The Town Manager oversees this process.

### **What Elements are Considered When Imposing Site Management Conditions?**

The Town Manager considers the entire project when deciding what conditions will be imposed. A review of some or all of the following items may be involved:

- The scale of the project
- Property lines
- The location of streets
- Existing and proposed structures

- Other existing proposed site features such as sidewalks, steps, porches, driveways, water drainage structures, mechanical equipment, fences, walls, downspouts (including outfall direction) and trees
- Proposed tree protection zones and applicable tree pruning, protection and removal information
- Sediment control fencing if excavation is proposed
- Proposed location of dumpsters, sanitation facilities, delivery zones, staging areas, and parking areas.

### **Do Opportunities Exist to Discuss Concerns about Potential Site Management Conditions? (Sec. 4-2(c))**

Certain types of building permits require a formal meeting with the Town Manager to discuss construction site management issues. These involve permits to construct a new building in excess of 500 square feet; an addition or an alteration that increases the square footage of an existing floor by more than 500 square feet; or the demolition of more than 50 percent of the exterior walls of a house. If a project fits into one of these categories, the Town Manager will schedule a Site Management meeting after the Town building permit application is received and after staff has reviewed the documents. Neighboring property owners and the general public will be given advance notice of the meeting and are allowed to attend and participate. Specific concerns related to the Town's site management conditions, construction requirements, and project management are discussed. While not mandatory, the Town strongly recommends that the general contractor for the project attend this meeting.

Even if a site management is not required, you should feel free to contact the Town Manager to discuss site management conditions prior to the issuance of a building permit.

### **How are Streets and Sidewalks Protected from Construction Activity? (Secs. 4-2 & 4-8(a) (b) & (c))**

Any time an activity may disrupt a street or sidewalk, a Town building permit is required. If the activity is part of construction project, a public right-of-way permit typically will be included as part of the building permit. If construction activity could block pedestrian or vehicular traffic, you are required to erect clearly visible barricades and safety barriers. The Town Manager must provide written permission in cases where public right-of-ways are blocked for more than 10 days.

You should also know that construction debris cannot be stored on the public right-of-way including streets, sidewalks, curbs, gutters, or grassy areas. Mud or dirt on a public right-of-way must be removed daily.

Following construction, the restoration of a public right-of-way, including driveways and aprons in a public right-of-way, is the responsibility of the property owner (that is, the building permit holder). In the event the property owner fails to discharge this obligation, the Town will do the work and charge the permit holder all associated costs. A cash performance bond sufficient to cover the cost of restoring the right-of-way is required before a building permit is issued.

### **Do Noise Restrictions Exist? (Sec. 16-1)**

Town regulations specify that construction activity cannot begin before 7:00 a.m. on weekdays, or 9:00 a.m. on weekends or federal holidays. It must end no later than 7:00 p.m., regardless of the day of the week. Construction activity includes not only actual construction and demolition, but also assembling and preparing a site, loading and unloading material, allowing engines to idle, and operating equipment with audible “back up” warning devices.

The operation of outdoor landscaping power equipment is similarly restricted. Unless an emergency exists, these items cannot be operated before 8:00 a.m. on weekdays, or 9:00 a.m. on weekends and federal holidays. Their operation must cease by 8:00 p.m. on weekdays (but note that if you choose to operate these machines after 7:00 p.m. on a weekday, only one such piece of equipment is allowed to run until 8:00 p.m.). On weekends and federal holidays, their operation must cease by 7:00 p.m. This type of equipment includes power lawnmowers, leaf blowers, and chain saws.

The above restrictions supplement the provisions of the Montgomery County noise control ordinance, which is enforceable within the Town.

### **Relevant provisions of the Town Code**

#### In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)
- Sec. 4-8 (Protection of streets, sidewalks, etc.).

#### In Chapter 16 (Noise Control):

- Sec. 16-1 (Noise restrictions)

## Chapter 4

### Additions and External Alterations to Your House

Additions and external alterations are construction projects that affect the exterior appearance of a house. Projects that expand the height, length, width, or contour of a house (thus adding enclosed space to it) are considered to be additions.\* Projects that change some portion of the house's exterior, but generally don't add enclosed space are considered to be external alterations.

#### Examples of additions

Adding a family room  
Adding a room on top of a one-story part of the house  
Screening in an open porch  
Adding a mud room  
Enclosing a front porch/stoop

#### Examples of external alterations

Adding or replacing a bay window  
Adding or replacing an external stairway  
Adding a dormer  
Adding or replacing a deck  
Adding or replacing a front porch  
Adding or replacing a chimney

All additions and external alterations are regulated by both the Town's building code and Montgomery County's building code. For this reason, your project must satisfy both sets of regulations and you must get a building permit from the Town and a building permit from the County. This chapter describes the Town regulations that control the height of a house; its floor area; the height and length of its external walls; the front, rear and side setbacks; front-loading garage door dimensions; the effect of construction on trees and water drainage; and the amount of nonvegetative surface area in a front yard.

County regulations affect some (but not all) of these matters. The County also regulates matters that are not regulated by the Town, such as lot coverage, electrical connections, plumbing, etc.

\* Montgomery County requires that at least 50% of the first-story exterior walls be retained in order for a project to be considered an addition.

#### **What's in this Chapter?**

- Where Can I Build?
- How Big Can I Build?

- What Other Restrictions Regulate the Bulk and Mass of My House?
- What Regulations Apply to Projections into the Front, Rear and Side Setbacks?
- Where Can Air Conditioners, Heat Pumps, and Generators be Located?
- What Restrictions Apply to My Front Yard?
- Can I Build onto a Nonconforming Structure?
- Can I Replace a Non-Conforming Projection?
- What Must I Do to Protect Trees?
- What is a Water Drainage Plan and Do I Need One?
- What is a Pre-Permit Application Consultation and Am I Required to Have One?
- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?
- When Must My Project Begin and How Long Can My Project Take to Complete?
- What Must I Do During and After Construction?
- Is a Variance Possible?
- Relevant provisions of the Town Code

## **Where Can I Build?**

Both the Town of Chevy Chase and Montgomery County use front, rear and side setbacks to regulate where you can build on your lot. The Town's setbacks are generally more restrictive than the County's setbacks, so when your project is in compliance with the Town setbacks, it will usually be in compliance with the County setbacks.

Beside setback requirements, the location of healthy canopy trees on your lot may constrain where you can build. The Town prohibits the removal of healthy canopy trees unless special permission is granted by the Town's Council. Although you may apply for a permit to remove a

canopy tree, you are strongly encouraged to design your project so that removal is unnecessary. See the *Trees* chapter for more information.

- General information about setbacks

The front, rear, and side setbacks are measured from the front, rear, and side lot lines. How big those setbacks are depends on the dimensions of your lot. Detailed information about setbacks is provided in the *Calculations* chapter. Special rules apply to corner lots and to houses built before February 23, 2006. Other exceptions exist (for example, if your house is built to within 7 feet or less of the side lot line). Please refer to the Town Code to see specifics about exceptions, or call the Town Office for help. If your lot is oddly shaped, calculating the setbacks can be tricky, so feel free to ask the Town staff for assistance.

In the initial planning stages of your project, you may be able to obtain good estimates of the setbacks for your lot by using the Town's online setback calculator or by using the formulas provided in the *Calculations* chapter (if you know the dimensions of your lot). You can then get a rough idea about where you can build by applying the setbacks to your plat. But before you have plans drawn for your addition or alteration, you'll need the greater accuracy of a boundary survey (accurate to 1 inch). In addition, you will very likely have to have an established building line survey prepared. This survey measures the existing front setback of other houses along the street, and helps determine the front setback of your property. In addition, the location of the established building line may impact your actual side and rear building setbacks. The boundary survey, combined with the established building survey, establishes the location of the minimum setbacks for the lot and will show where your existing house is located in relation to the setbacks.

- Front setback (Sec. 4-4(a))

Your addition or external alteration must be set back at least as far from the front lot line as the existing house, as long as the existing house is at least 25 feet from the front lot line. Alternatively, an addition may be designed that conforms to the established building line. Front porches, steps, decks, and some other "projections" may encroach beyond the front setback line. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

Corner lots - If you have a corner lot, then you have 2 front yards (the two portions of your lot that border streets are considered to

be front yards). This means that you have two front lot lines. Depending on the configuration of the adjacent properties, the front setback for one of the front yards may be 15 feet instead of 25 feet.

*NOTE: The location of your front lot line may be a surprise to you because a portion of what appears to be your front yard may actually be a public right-of-way.*

- Rear setbacks (Sec. 4-4(c))

The minimum rear setback depends on the depth of the lot and the size of the front setback, but is never less than 20 feet. Porches, steps, decks, and some other “projections” may encroach beyond the rear setback line. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

- Side setbacks (Secs. 4-4(b) & (d))

The Town Code establishes both the minimum setback for a single side of a yard and the minimum setback for both sides combined. The wider the lot is, the wider the minimum single-side and combined-side setbacks are. The two single-side setbacks do not have to be equal. The minimum combined-side setback for an interior lot is the greater of 16 feet or 30% of the width of the lot; the minimum single-side setback is the greater of 8 feet or 40% of the combined-side setback. For example, for lots 60 feet in width, the minimum combined-side setback is 18 feet and the minimum single-side setback is 8 feet. Please note that if the current house is located closer to the side lot line than the minimum allowable setback, any addition must be located so the combined-side setback for the addition conforms to the 30% minimum setback. Porches, steps, decks, and some other “projections” may encroach beyond the front setback line. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

For a corner lot, the Town adopts the County’s minimum side setback unless the lot is wider than 70 feet. In these instances, the minimum side setback is 8 feet.

## **How Big Can I Build?**

Both the Town and Montgomery County regulate the bulk/mass of houses, but in different ways. The Town limits gross floor area and height; the County limits lot coverage and height. The Town's height regulations are more restrictive than the County's. Consequently, the allowable size of your addition/alteration depends on three measures: 1) how much of the allowed lot coverage your existing house and accessory buildings already cover; 2) how much of your allowed gross floor area your existing house and accessory buildings currently use up; and 3) the proposed height of your addition/alteration.

- Lot coverage

Lot coverage is the percentage of your lot that may be covered by buildings (your house and any accessory buildings). The maximum lot coverage allowed under County regulations for projects that are considered infill development ranges from 30% for lots less than 6,000 square feet down to 20% for lots greater than 16,000 square feet. The allowable lot coverage for all other projects is 35%. See the *Calculations* chapter for more details.

- Gross Floor Area and Floor Area Ratio (FAR) (Sec. 4-3(c))

The Town regulates the amount of gross floor area that may be built on a lot. For the purposes of the Town's regulations, gross floor area includes all of the enclosed square footage on a lot. It is the sum of the enclosed horizontal surface areas (square footage on each floor) in your house and in all accessory buildings on your lot. The horizontal surface area of basements, cellars, unenclosed porches, and some attic space, and the first 240 square feet of one accessory building are not included in the gross floor area. Horizontal surface areas with ceiling heights greater than 14 feet count twice. See the *Calculations* chapter for details.

For lots less than 6,000 square feet, the maximum allowable gross floor area is 3,000 square feet. For lots with 6,000 square feet or more, the ratio of the gross floor area of all buildings on the lot to the area of the lot cannot exceed set amounts. This ratio is referred to as the Floor Area Ratio or FAR. For example, for lots of 6,000 square feet to 12,000 square feet, the ratio of the gross floor area of all buildings on the lot to the total area of the lot cannot exceed 0.5. This means the maximum gross floor area ranges from 3,000 square feet on a 6,000 square foot lot to 6,000 square feet on a 12,000 square foot lot. For lots greater than 12,000 square feet, the Town allows a maximum allowable gross floor area of 6,000 square feet, plus a FAR of .25 for that area of the lot that exceeds 12,000 square feet.

The Town uses gross floor area/FAR to regulate the bulk/mass of houses because its use results in a uniform standard being applied to different-sized lots and because it restricts only the overall amount of square footage that can be built on a lot, not the configuration of that footage.

To compute how much additional gross floor area is available for your addition/alteration, you must:

- Calculate the maximum gross floor area for your lot;
- Calculate the gross floor area of your existing house; and
- Compute the difference between the two.

Calculating the maximum gross floor area for your lot is not difficult, but calculating the gross floor area of your existing house is tricky. The Town, through its zoning consultant, offers a free gross floor area calculation estimation program which, while not accurate enough for permitting purposes will give you a good estimate that can help you in your initial planning. For your permit, you will need to have a certified calculation done by a surveyor, civil engineer, or architect. See the *Calculations* chapter for more details about gross floor area.

- Building Height (Sec. 4-3(b))

Generally under Town regulations the height of a house cannot exceed 33 feet or 28 feet, depending on how it is measured. When measured from the average pre-development grade in front of your house to the highest point of its roof, the height cannot exceed 33 feet. When measured to the mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof, house height cannot exceed 28 feet. The Town permits you to pick which way the height of your house is to be measured. Your house has to meet only one of these height limits, not both. Exceptions exist if the house already exceeds the above standards. For assistance understanding these two measures, contact the Town staff. See the *Calculations* chapter for diagrams illustrating the two methods used to measure height. See the Town Code for details.

## What Other Restrictions Regulate the Bulk and Mass of My House?

Town regulations limit the length and height of exterior walls and restrict certain elements of attached front-loading garages.

- Wall plane height (Sec. 4-3 (b))

The maximum allowable height of an exterior wall (referred to as the wall plane height) is 36 feet. Wall plane height is measured from the pre-development grade to the highest point on the wall. See the diagram in the *Calculations* chapter. If you have a sloping lot, this restriction may affect the height of a multi-story addition.

- Wall plane length (Sec. 4-3 (d))

The maximum horizontal length of an exterior wall (referred to as the wall plane length) is 34 feet, unless there is an “articulation” such as an architectural offset or a chimney. (See the diagram in the *Calculations* chapter). The articulation must measure at least 2 feet deep and 5 feet in width and extend the full height of the wall.

- Attached front-loading garage (Sec. 4-6)

A garage that is attached to the house and faces the front yard (known as a front-loading garage) can have only one garage door, which cannot exceed 9 feet in width. The garage must be set at least 3 feet back from the adjoining front wall planes of the house.

## What Regulations Apply to Projections into the Front, Rear and Side Setbacks? (Sec. 4-4(e))

In general, no part of your house may project beyond the front, rear, and side setback lines. However, an exception is made for certain specified projections including porches, stoops, decks, terraces, steps, bay windows, oriel entrances, vestibules, balconies, cornices, eaves, sills, leaders, belt courses, chimneys, and outside stairways. How far these projections may extend beyond the setback line depends, in part, on whether the projection is covered or uncovered, enclosed or unenclosed.

- Porches, stoops, decks, terraces and steps

The Town allows porches, stoops, decks, terraces and steps that lead up to them to extend up to 9 feet beyond the front and rear setback lines and up to 3 feet beyond a side setback line provided they are not

enclosed. The roof on a projection of this type may extend only 3 feet beyond the rear and side setback lines. For additions to existing houses, a roof on such a projection may extend 9 feet beyond the established building line if the roof is on the first floor and set back from the side property lines at least 13 feet. In all other cases, a 3-foot projection is allowed. If a porch, stoop, deck, or steps is enclosed (this includes screening), no part of it can extend beyond the setback line. If you have a corner lot, please consult the Town staff for assistance with this as the rules for corner lots are different.

- Bay windows, oriel entrances, vestibules and balconies

In general, the Town permits a bay or bow window, oriel entrance, vestibule or balcony to project up to 3 feet beyond the front or rear setback lines. Note, however, that the rule applies only to structures that are no more than 10 feet in width and 1 story in height. Certain exceptions apply. See the Town Code or ask Town staff for assistance.

- Cornices and eaves, outside stairways, sills, leaders, belt courses

Cornices and eaves can extend up to 2 ½ feet beyond the front, rear, and side setback lines. Sills, leaders, belt courses, and similar ornamental features can extend up to 6 inches beyond the setback lines.

- Outside stairways

Outside stairways such as an unenclosed fire escape can extend up to 5 feet beyond the rear setback line; they cannot extend beyond the front or side setback lines.

- Chimneys

Chimneys can extend up to 2 feet beyond the front, rear, or side setback lines.

- At/below grade improvements

Improvements such as egress window wells and areaways that project less than 12 inches above the adjacent grade are considered to be at-grade improvements and are not subject to setback requirements.

## **Where Can Air Conditioners, Heat Pumps, and Generators be Located?**

(Sec. 4-4(e))

Air conditioners and heat pumps can extend up to 5 feet beyond the front or rear setback lines. They cannot extend beyond the side setback lines. Exceptions apply. See the Town Code or ask Town staff for assistance. Generators must meet the main building setbacks for the house (i.e. they may not project into the front, side, or rear setbacks).

### **What Restrictions Apply to My Front Yard? (Sec. 4-3(e))**

The non-vegetative surface area of a front yard cannot exceed 35 percent of the area of the front yard. For corner lots, the limitation applies to the sum of the area in both front yards (corner lots have two front yards -). See the diagrams in the *Calculations* chapter. For lots that front Bradley Lane, Connecticut Avenue or East West Highway, special rules apply. See the *35 Percent Rule* chapter for more information and ask the Town staff for assistance.

### **Can I Build onto a Nonconforming Structure? (Sec. 4-7)**

Yes. If your house is developmentally nonconforming (which means that it was lawful when it was built, but due to changes in regulations some aspect of it no longer conforms to the Town Code), you can put on an addition or make an external alteration provided the new construction conforms to current Town regulations. For example, if your house violates the current side setbacks, you could put on a rear addition, but the sides of that addition would have to be aligned with the current side setbacks. Similarly, if there is a one-story portion of your house that is nonconforming, you may not build on top of it.

### **Can I Replace a Non-Conforming Projection? (Sec. 4-7)**

A non-conforming projection such as a deck, porch, stoop, or bay window can be altered, repaired, or replaced without a variance. Such non-conforming projections, however, cannot be enlarged beyond the dimensions that existed prior to May 17, 2008. Note that while you don't need a variance to replace a nonconforming projection, you do need a Town building permit.

### **What Must I Do to Protect Trees? (Secs. 29-4, 29-12 & 29-13)**

Town regulations require that all regulated trees on your lot, and all trees on neighboring lots or in the public right-of-way, be protected from harm by your construction activities. If a tree cannot be protected or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit only if the tree is not a

canopy tree (as defined by the Town) or it is dead, dying, or hazardous; otherwise you must obtain approval from the Town Council to remove the tree or you will have to modify your plans. When you file your Town building permit application, you will have to submit a Tree Protection Plan, which describes the measures that will be implemented to protect trees from any harmful effects of your project. See the *Trees* chapter for more details.

### **What is a Water Drainage Plan and Do I Need One? (Sec. 28-3 & 28-4)**

A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of the storm water generated by your proposed development on neighboring properties and the measures that will be used to manage water drainage. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's already overloaded storm water system. If your proposed project (together with any other development project within the past 2 years) will add 700 or more square feet of impervious surface to your lot, a civil engineer or land surveyor must develop a water drainage plan for review and approval by the Town. The approved plan is made a condition of the building permit. Details about the technical requirements of the water drainage ordinance can be found in the Town Code and on the Town's web site. You are encouraged to consult with Town staff about the requirements. See the *Water Drainage* chapter for more information.

### **What is a Pre-Permit Application Consultation and Am I Required to Have One? (Sec. 4-2)**

A Pre-Permit Application Consultation (Pre-PAC) is a meeting at which you present an overview of your proposed project to Town staff and interested Town residents. This meeting is required when you add 500 square feet or more to your existing house. The meeting has several goals, the primary goal being to provide an early opportunity for Town staff and Town residents (particularly neighbors) to view conceptual plans for your project. Sharing your plans early on with Town staff can help identify elements of your design that are out of compliance with Town building regulations, thus saving you time and money. Sharing your plans with neighbors not only helps maintain good neighborly relations, but may generate helpful suggestions and enable you to act on concerns they may also have before it's too late to revise your plans. You

are not obligated to act on any of the suggestions made at the Pre-PAC meeting, other than those that involve code or regulatory issues that were identified. The meeting must be held before you apply for your Town building permit, preferably at the stage where you are reviewing schematic drawings. See the *Pre-Permit Application Consultation* chapter for more information.

### **What Documentation Must I Submit to Obtain a Town Permit? (Sec. 4-2)**

Different types of projects require different sets of documentation to be submitted with the building permit application. See the *Permitting* chapter for more information.

### **What Town Permits Will I Need? (Sec. 4-2)**

You will need a Town building permit to construct an addition or make an external alteration to your existing house. Usually several types of activities will be involved (demolition, a dumpster or storage container, disruption of the public right-of-way, construction, etc.), all of which require a Town building permit. You may obtain separate permits for each activity or one permit that encompasses all of them. The Town's building permit can only be issued after a building permit from Montgomery County has been issued. If you propose to remove a regulated tree, you also must obtain a Town Tree Removal Permit. For more details see the *Permitting* and *Trees* chapters.

### **When Must My Project Begin and How Long Can My Project Take to Complete? (Sec. 4-2(h))**

You must begin your project no later than 6 months after the Town building permit is issued. You must complete it by the date specified in your Town building permit application, but no later than 12 months after the building permit was issued. The Town Manager is authorized to issue an extension if he/she deems if necessary.

### **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details.

## **Is a Variance Possible? (Secs. 4-60 & 28-10)**

If some aspect of your proposed project does not comply with the Town's building code or water drainage ordinance, you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

### **Relevant Provisions of the Town Code**

#### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-3 (Building height, massing, and neighborhood compatibility)
- Sec. 4-4 (Building location requirements; prohibitions)
- Sec. 4-6 (Front-loading garages)
- Sec. 4-7 (Developmental nonconformities)
- Sec. 4-8 (Protection of streets, sidewalks, etc.)
- Sec. 4-60 (Variances requests)

#### In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)
- Sec. 28-10 (Variance request)

#### In Chapter 29 (Urban Forest):

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 5

### New Houses

The construction of a new house is regulated by both the Town's building code and Montgomery County's building code. For this reason, your project must satisfy both sets of regulations and you must get a building permit from the Town and from the County. This chapter describes the Town regulations that control the height of a house; its floor area; the height and length of its external walls; the front, rear and side setbacks; front-loading garage dimensions; the effect of construction on trees and water drainage; and the amount of nonvegetative surface area in a front yard.

County regulations affect some (but not all) of these matters. The County also regulates matters that are not regulated by the Town, such as lot coverage, electrical connections, plumbing, etc.

#### What's in this Chapter?

- Where Can I Build?
- How Big Can I Build?
- What Other Restrictions Regulate the Bulk and Mass of My House?
- What Regulations Apply to Projections into the Front, Rear and Side Setbacks?
- Where Can Air Conditioners, Heat Pumps, and Generators be Located?
- What Restrictions Apply to My Front Yard?
- What Must I Do to Protect Trees?
- What is a Water Drainage Plan and Do I Need One?
- What is a Pre-Permit Application Consultation and Am I Required to Have One?
- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?

- When Must My Project Begin and How Long Can My Project Take to Complete?
- What Must I Do During and After Construction?
- Is a Variance Possible?
- Relevant provisions of the Town Code

## Where Can I Build?

Both the Town of Chevy Chase and Montgomery County use *front, rear and side setbacks* to regulate where you can build on your lot. The Town's setbacks are generally more restrictive than the County's setbacks, so when your project is in compliance with the Town setbacks, it will usually be in compliance with the County setbacks.

Beside setback requirements, the location of healthy canopy trees on your lot may constrain where you can build. The Town prohibits the removal of healthy canopy trees under most circumstances. Although you may apply for a permit to remove a regulated tree, you are strongly encouraged to design your project so that removal is unnecessary. See the *Trees* chapter for more information.

- General information about setbacks

The front, rear, and side setbacks are measured from the front, rear, and side lot lines. How big those setbacks are depends on the dimensions of your lot. Detailed information about setbacks is provided in the *Calculations* chapter. Special rules apply to corner lots. Please refer to the Town Code for details or call the Town Office for help. If your lot is oddly shaped, calculating the setbacks can be tricky, so feel free to ask the Town staff for assistance.

In the initial planning stages of your project, you may be able to obtain good estimates of the setbacks for your lot by using the formulas provided in the *Calculations* chapter (if you know the dimensions of your lot). You can then get a rough idea about where you can build by applying the setbacks to your plat. But before you have plans drawn for your house, you'll need the greater accuracy of a boundary survey (accurate to 1 inch). The survey is required to obtain the Town building permit. The boundary survey determines exactly where the lot lines are, which in turn establishes the location of the minimum setbacks for the lot.

- Front setback (Sec. 4.4(a))

Your new house must be set at or behind the established building line or 25 feet from the front lot line, whichever results in a greater setback. Front porches, steps, decks, and some other “projections” may encroach beyond the front setback line. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

*NOTE: Corner lots - If you have a corner lot, then you have 2 front yards (the two portions of your lot that border streets are considered to be front yards). This means that you have two front lot lines. Depending on the configuration of adjacent lots, the front setback on one side may be 15 feet.*

- Rear setbacks (Sec. 4.4(c))

The minimum rear setback depends on the depth of the lot and the size of the front setback, but is never less than 20 feet. Porches, steps, decks, and some other “projections” may encroach beyond the rear setback line. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

- Side setbacks (Sec. 4.4(b) & (d))

The Town Code establishes both the minimum setback for a single side of a yard and the minimum setback for both sides combined. The wider the lot is, the wider the minimum single-side and combined-side setbacks are. The two single-side setbacks do not have to be equal. The minimum combined-side setback for an interior lot is the greater of 16 feet or 30% of the width of the lot; the minimum single-side setback is the greater of 8 feet or 40% of the combined-side setback. For example, for lots 60 feet in width, the minimum combined-side setback is 18 feet and the minimum single-side setback is 8 feet. Porches, steps, decks, and some other “projections” may encroach beyond the side setback lines. See the section later in this chapter on projections and the *Porches, Decks, Outside Stairways, Etc.* chapter.

For corner lots less than 70 feet wide, the applicable Montgomery County setback applies. For lots greater than 70 feet wide, the side setback is 8 feet.

## **How Big Can I Build?**

Both the Town and Montgomery County regulate the bulk/mass of houses, but in different ways. The Town limits gross floor area and height; the County limits lot coverage and height (the Town's height regulations are more restrictive than the County's). Consequently, the allowable size of your new house depends on three measures: 1) how much of your lot can be covered by a new house and its accessory buildings, given your lot's dimensions; 2) how much gross floor area can be constructed on your lot, given the lot's dimensions; and 3) the proposed height of your new house.

- Lot coverage

Lot coverage is the percentage of your lot that may be covered by buildings (your house and any accessory buildings). The maximum lot coverage allowed under County regulations for projects that are considered infill development ranges from 30% for lots less than 6,000 square feet down to 20% for lots greater than 16,000 square feet. See the *Calculations* chapter for more details

- Gross Floor Area and FAR (Sec. 4-3(c))

The Town regulates the amount of gross floor area that may be built on a lot. For the purposes of the Town's regulations, gross floor area includes all of the enclosed square footage on a lot. It is the sum of the enclosed horizontal surface areas (square footage on each floor) in your house and in all accessory buildings on your lot. The horizontal surface area of basements, cellars, unenclosed porches, and some attic space, and the first 240 square feet of one accessory building are not included in the gross floor area. Horizontal surface areas with ceiling heights greater than 14 feet count twice. See the *Calculations* chapter for details.

For lots less than 6,000 square feet, the maximum allowable gross floor area is 3,000 square feet. For lots with 6,000 square feet or more, the ratio of the gross floor area of all buildings on the lot to the area of the lot cannot exceed set amounts. (This ratio is referred to as the Floor Area Ratio or FAR). For example, for lots of 6,000 square feet to 12,000 square feet, the ratio of the gross floor area of all buildings on the lot to the total area of the lot cannot exceed 0.5. This means the maximum gross floor area ranges from 3,000 square feet on a 6,000 square foot lot to 6,000 square feet on a 12,000 square foot lot. For lots greater than 12,000 square feet, the Town allows a maximum allowable gross floor area of 6,000 square feet, plus a FAR of .25 for that area of the lot that exceeds 12,000 square feet.

The Town uses gross floor area/FAR to regulate the bulk/mass of houses because its use results in a uniform standard being applied to different-sized lots and because it restricts only the overall amount of square footage that can be built on a lot, not the configuration of that footage.

Calculating the maximum gross floor area for your lot is not difficult, but calculating the gross floor area of your proposed house can be tricky. For your permit, you will need to have a certified calculation done by a surveyor, civil engineer, or architect. See the *Calculations* chapter for more details about gross floor area.

- House Height (Sec. 4-3(b))

Generally under Town regulations, the height of a house cannot exceed 33 feet or 28 feet, depending on how it is measured. When measured from the average pre-development grade in front of your house to the highest point of its roof, the height cannot exceed 33 feet. When measured to the mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof, house height cannot exceed 28 feet. The Town permits you to pick which way the height of your house is to be measured. Your house has to meet only one of these height limits, not both. For assistance understanding these two measures, contact the Town staff. See the *Calculations* chapter for diagrams illustrating the two methods used to measure height. See the Town Code for details.

## **What Other Restrictions Regulate the Bulk and Mass of My House?**

Town regulations limit the length and height of exterior walls and restrict certain elements of attached front-loading garages.

- Wall plane height (Sec. 4-3 (b))

The maximum allowable height of an exterior wall (referred to as the wall plane height) is 36 feet. See the diagram in the *Calculations* chapter. Wall plane height is measured from the pre-development grade to the highest point on the wall. If you have a sloping lot, this restriction may impact the height or design of a multi-story house.

- Wall plane length (Sec. 4-3 (d))

The maximum horizontal length of an exterior wall (referred to as the wall plane length) is 34 feet, unless there is an “articulation” such as an architectural offset or a chimney. The articulation must measure at

least 2 feet deep and 5 feet in width and extend the full height of the wall. See the diagram in the *Calculations* chapter.

- Attached front-loading garage (Sec. 4-6)

A garage that is attached to the house and faces the front yard (known as a front-loading garage) can have only one garage door, which cannot exceed 9 feet in width. The garage must be set at least 3 feet back from the adjoining front wall planes of the house.

### **What Regulations Apply to Projections Into the Front, Rear and Side Setbacks? (Sec. 4-4(e))**

In general, no part of your house may project beyond the front, rear, or side setback lines. However, an exception is made for certain specified projections including porches, stoops, decks, terraces, steps, bay windows, oriel entrances, vestibules, balconies, cornices, eaves, sills, leaders, belt courses, chimneys, and outside stairways. How far these projections may extend beyond the setback line depends, in part, on whether the projection is covered or uncovered, enclosed or unenclosed.

- Porches, stoops, decks, terraces and steps

The Town allows porches, stoops, decks, terraces and steps that lead up to them to extend up to 9 feet beyond the front and rear setback lines and up to 3 feet beyond a side setback line provided they are not enclosed. The roof on a projection of this type on new houses may extend only 3 feet beyond the front, rear, or side setback lines. If a porch, stoop, deck, or steps is enclosed (this includes screening), no part of it can extend into the setback. If you have a corner lot, please consult the Town staff for assistance with this as the rules for corner lots are different.

- Bay windows, oriel entrances, vestibules and balconies

In general, the Town permits a bay or bow window, oriel entrance, vestibule or balcony to project up to 3 feet beyond the front or rear setback line. Note, however, that the rule applies only to structures that are no more than 10 feet in width and 1 story in height. Certain exceptions apply. See the Town Code or ask Town staff for assistance.

- Cornices and eaves, outside stairways, sills, leaders, belt courses

Cornices and eaves can extend up to 2 ½ feet beyond the front, rear, and side setback lines. Sills, leaders, belt courses, and similar

ornamental features can extend up to 6 inches beyond the setback lines.

- Outside stairways

Outside stairways such as an unenclosed fire escape can extend up to 5 feet beyond the rear setback line; they cannot extend beyond the front or side setback lines.

- Chimneys

Chimneys can extend up to 2 feet beyond the front, rear, or side setback lines.

- At/below grade improvements

Improvements such as egress window wells and areaways that project less than 12 inches above the adjacent grade are considered to be at-grade improvements and are not subject to setback requirements.

### **Where Can Air Conditioners, Heat Pumps, and Generators be Located?**

(Sec. 4-4(e))

Air conditioners and heat pumps can extend up to 5 feet beyond the front or rear setback lines. They cannot extend beyond a side setback line. Exceptions apply. See the Town Code or ask Town staff for assistance. Generators must meet the main building setbacks for the house (i.e. they may not project into the front, side, or rear setbacks).

### **What Restrictions Apply to My Front Yard? (Sec. 4-3(e))**

The non-vegetative surface area of a front yard cannot exceed 35 percent of the area of the front yard. For corner lots, the limitation applies only to the sum of the area in both front yards (corner lots have two front yards - See the diagrams in the *Calculations* chapter). For lots that front Bradley Lane, Connecticut Avenue or East West Highway, special rules apply. See the *35 Percent Rule* chapter for more information and ask the Town staff for assistance.

### **What Must I Do to Protect Trees? (Secs. 29-4, 29-12 & 29-13)**

Town regulations require that all regulated trees on your lot, and all trees on neighboring lots or in the public right-of-way, be protected from harm

by your construction activities. If a tree cannot be protected or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit only if the tree is not a canopy tree (as defined by the Town) or it is dead, dying, or hazardous; otherwise you must obtain approval from the Town Council to remove the tree or you will have to modify your plans. When you file your Town building permit application, you will have to submit a Tree Protection Plan, which describes the measures that will be implemented to protect trees from any harmful effects of your project. See the *Trees* chapter for more details.

### **What is a Water Drainage Plan and Do I Need One? (Sec. 28-3 & 28-4)**

A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of the storm water generated by your proposed development on neighboring properties and the measures that will be used to manage water drainage. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's already overloaded storm water system. If your proposed project (together with any other development project within the past 2 years) will add 700 or more square feet of impervious surface to your lot, a civil engineer or land surveyor must develop a water drainage plan for review and approval by the Town. The approved plan is made a condition of the building permit. Details about the technical requirements of the water drainage ordinance can be found in the Town Code and on the Town's web site. You are encouraged to consult with Town staff about the requirements. See the *Water Drainage* chapter for more information.

### **What is a Pre-Permit Application Consultation and Am I Required to Have One? (Sec. 4-2)**

A Pre-Permit Application Consultation is a meeting at which you present an overview of your proposed project to Town staff and interested Town residents. This meeting is required when you construct or demolish a house. The meeting has several goals, the primary goal being to provide an early opportunity for Town staff and Town residents (particularly neighbors) to view conceptual plans for your project. Sharing your plans early on with Town staff can help identify elements of your design that are out of compliance with Town building regulations, thus saving you time and money. Sharing your plans with neighbors not only helps maintain good neighborly relations, but also may generate helpful suggestions and enable you to act on concerns they may have before it's

too late to revise your plans. You are not obligated to act on any of the suggestions made at the Pre-PAC meeting, other than those that involve code or regulatory issues that were identified. The meeting must be held before you apply for your Town building permit, preferably at the stage where you are reviewing schematic drawings. Please see the *Pre-Permit Application Consultation* chapter for more information.

### **What Documentation Must I Submit to Obtain Town Permits?** (Sec. 4-2)

Different types of projects require different sets of documentation to be submitted with the Town building permit application. See the *Permitting* chapter for more information.

### **What Town Permits Will I Need?** (Sec. 4-2)

You will need a Town building permit to construct a new house (and to demolish the old one). Usually several types of activities will be involved (demolition, a dumpster or storage container, disruption of the public right-of-way, construction, etc.), all of which require a Town building permit. You may obtain separate permits for each activity or one permit that encompasses all of them. The Town's building permit can only be issued after a building permit from Montgomery County has been issued. If you propose to remove a regulated tree, you also must obtain a Town Tree Removal Permit. For more details see the *Permitting* and *Trees* chapters.

### **When Must My Project Begin and How Long Can My Project Take to Complete?** (Sec. 4-2(h))

You must begin your project no later than 6 months after the Town building permit is issued. You must complete it by the date specified in your Town building permit application, but no later than 12 months after the building permit was issued. The Town Manager is authorized to issue an extension if he/she deems it necessary.

### **What Must I Do During and After Construction?** (Sec. 4-8)

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details.

### **Is a Variance Possible?** (Secs. 4-60 & 28-10)

If some aspect of your proposed project is not in compliance with the Town's building code or water drainage ordinance you may apply for a variance. Variances are difficult to obtain but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-3 (Building height, massing, and neighborhood compatibility)
- Sec. 4-4 (Building location requirements; prohibitions)
- Sec. 4-6 (Front-loading garages)
- Sec. 4-7 (Developmental nonconformities)
- Sec. 4-8 (Protection of streets, sidewalks, etc.)
- Sec. 4-60 (Variances requests)

### In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)
- Sec. 28-10 (Variance request)

### In Chapter 29 (Urban Forest):

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 6

### Detached Garages and Other Accessory Buildings

An accessory building is a building that is located on the same lot as a house but is not attached to it by any common wall or roof. To qualify as an accessory building, the structure must be incidental and subordinate to the house itself. Examples include detached garages, garden sheds, greenhouses, and gazebos.

Accessory buildings are regulated by both the Town's building code and Montgomery County's building code. For this reason, your project must satisfy both sets of regulations and you must get a building permit from the Town and from the County. This chapter describes the Town regulations that control the height of an accessory building; its floor areas; the height and length of its external walls; the front, rear and side setbacks; and the effect of construction on trees and water drainage.

County regulations affect some (but not all) of these matters. The County also regulates matters that are not regulated by the Town, such as lot coverage, electrical connections, plumbing, etc.

If your project involves the construction of an attached garage, see the *Additions and External Alterations* chapter. Information about the construction of detached garages and other accessory buildings is provided in this chapter.

#### What's in this Chapter?

- Where Can I Build?
- How Big Can I Build?
- Are There Limits on the Height of Accessory Buildings?
- Are There Limits on the Length of Accessory Buildings?
- What Must I Do to Protect Trees?
- What is a Water Drainage Plan and Do I Need One?
- What is a Pre-Permit Application Consultation and Am I Required to Have One?

- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?
- When Must My Project Begin and How Long Can My Project Take to Complete?
- What Must I Do During and After Construction?
- Is a Variance Possible?
- Relevant provisions of the Town Code

### **Where Can I Build? (Sec. 4-5)**

An accessory building must be located in the rear yard. If you have a corner lot or an oddly-shaped lot, ask Town staff for help in determining which portion of your lot is the rear yard.

Except for corner lots, accessory buildings must be set back from the front lot line a minimum of 60 feet. Your front lot line is located somewhere between your house and the curb. If you don't have a boundary survey and the front lot line is not shown on your plat, Town staff may have information that will help estimate its location.

Rear and side setbacks depend on both the height and length of your accessory building and on its roof design. Minimum rear and side setbacks of 5 feet apply to accessory buildings on interior lots that are less than 12 feet in height. The minimum rear setback on corner lots for accessory buildings less than 12 feet in height is 10 feet. Accessory buildings taller than 12 feet and/or with side walls measuring longer than 24 feet must be set back further. For details see the *Calculations* chapter.

### **How Big Can I Build? (Secs. 4-3(c) & 4-5 (a, b, c, d, e))**

Town building regulations prohibit an accessory building from occupying more than 25 percent of a rear yard.

Montgomery County limits lot coverage (the percentage of your lot that may be covered by buildings). The area covered by accessory buildings counts towards this limit. For a description of those regulations, see the *Calculations* chapter.

The Town limits the amount of gross floor area that may be built on a lot. The first 240 square feet of one accessory building is exempt from the gross floor area limit. But any square footage in excess of this amount is combined with that of your house to obtain the total gross floor area on your lot and this total must be under the maximum allowed for your lot. For a description of how gross floor area is calculated see the *Calculations* chapter.

### **Are There Limits on the Height of Accessory Buildings? (Sec. 4-5 (f))**

Yes. Generally under Town regulations, the height of an accessory building cannot exceed 15 feet or 12 feet depending on how it is measured. When measured from the average pre-development grade in the front of the structure to the highest point of the roof, the height cannot exceed 15 feet. When measured to the mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof, the height cannot exceed 12 feet. The Town permits you to pick which way to measure the height of your accessory building. Remember that an accessory building taller than 12 feet to the highest point (regardless of roof type) has increased side and rear setbacks.

### **Are There Limits on the Length of Accessory Buildings? (Sec. 4-3 (d) & 4-5)**

Yes. The maximum horizontal length of an exterior wall (referred to as the wall plane length) is 34 feet, unless there is an “articulation” such as an architectural offset, porch, or a chimney. See the diagram in the *Calculations* chapter. To qualify for the exception, these offsets must measure at least 2 feet deep and 5 feet in width and extend the full height of the wall. If the length of an accessory building wall exceeds 24 feet, additional setbacks are required.

### **What Must I Do to Protect Trees? (Secs. 29-4, 29-12 & 29-13)**

Town regulations require that all regulated trees on your lot, and all trees on neighboring lots or in the public right-of-way, be protected from harm by your construction activities. If a tree cannot be protected or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit only if the tree is not a canopy tree (as defined by the Town) or it is dead, dying, or hazardous; otherwise you must obtain approval from the Town Council to remove the tree or you will have to modify your plans. When you file your Town building permit application, you will have to submit a Tree Protection Plan, which describes the measures that will be implemented to protect

trees from any harmful effects of your project. See the *Trees* chapter for more details.

### **What is a Water Drainage Plan and Do I Need One? (Sec. 28-3 & 28-4)**

A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of the storm water generated by your proposed development on neighboring properties and the measures that will be used to manage water drainage. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's already overloaded storm water system. If your proposed project (together with any other development project within the past 2 years) will add more than 700 square feet of impervious surface to your lot, a civil engineer or land surveyor must develop a water drainage plan for review and approval by the Town. The approved plan is made a condition of the building permit. Details about the technical requirements of the water drainage ordinance can be found in the Town Code and on the Town's web site. You are encouraged to consult with Town staff about the requirements. See the *Water Drainage* chapter for more information.

### **What is a Pre-Permit Application Consultation and Am I Required to Have One? (Sec. 4-2)**

A Pre-Permit Application Consultation is a meeting at which you present an overview of your proposed project to Town staff and interested Town residents. This meeting is required when you construct an accessory building larger than 500 square feet. The meeting has several goals, the primary goal being to provide an early opportunity for Town staff and Town residents (particularly neighbors) to view conceptual plans for your project. Sharing your plans early on with Town staff can help identify elements of your design that are out of compliance with Town building regulations, thus saving you time and money. Sharing your plans with neighbors not only helps maintain good neighborly relations, but also may generate helpful suggestions and enable you to act on concerns they may have before it's too late to revise your plans. You are not obligated to act on any of the suggestions made at the Pre-PAC meeting, other than those that involve code or regulatory issues that were identified. The meeting must be held before you apply for your Town building permit, preferably at the stage where you are reviewing schematic drawings. Please see the *Pre-Permit Application Consultation* chapter for a full description of this meeting.

## **What Documentation Must I Submit to Obtain Town Permits? (Sec. 4-2)**

Different types of projects require different sets of documentation to be submitted with the Town building permit application. See the *Permitting* chapter for a full discussion.

## **What Town Permits Will I Need? (Sec. 4-2)**

You will need a Town building permit to construct or demolish an accessory building. Usually such projects involve several types of activities (demolition, a dumpster or storage container, disruption of the public right-of-way, construction, etc.) all of which require a Town building permit. You may obtain separate permits for each activity or one permit that encompasses all of them. The Town's building permit can only be issued after a building permit from Montgomery County has been issued. If you propose to remove a regulated tree, you also must obtain a Town Tree Removal Permit. For more details see the *Permitting* and *Trees* chapters.

## **When Must My Project Begin and How Long Can My Project Take to Complete? (Sec. 4-2(h))**

You must begin your project no later than 6 months after the Town building permit is issued. You must complete it by the date specified in your Town building permit application, but no later than 12 months after the building permit was issued. The Town Manager is authorized to issue an extension if he/she deems it necessary.

## **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details.

## **Is a Variance Possible? (Secs. 4-60 & 28-10)**

If some aspect of your proposed project is not in compliance with the Town's building code or water drainage ordinance, you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-3 (Building height, massing, and neighborhood compatibility)
- Sec. 4-5 (Accessory building construction; prohibitions)
- Sec. 4-8 (Protection of streets, sidewalks, etc.)
- Sec. 4-60 (Variances requests)

### In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)
- Sec. 28-10 (Variance request)

### In Chapter 29 (Urban Forest):

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 7

### Decks, Porches, Outside Stairways, Etc.

Decks, porches, stoops, oriel entrances, vestibules, balconies, and outside stairways are all regulated in some manner by the Town's building code. These structures are called "projections" as they are allowed to "project" into the minimum setbacks. This chapter discusses the Town regulations that affect these particular types of projections. A discussion of regulations pertaining to these and other types of projections (bay windows, chimneys, eaves, cornices, air conditioners, heat pumps, etc.) can be found in the *Additions and External Alterations* and *New Houses* chapters.

#### What's in this Chapter?

- Do I Need a Town Building Permit to Construct, Replace, or Modify a Projection?
- Where Can I Locate My Deck, Porch, and Other Projections?
- How Large Can My Deck, Porch, or Other Projection Be?
- Can I Replace a Non-Conforming Projection?
- What Must I Do to Protect Trees?
- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?
- When Must My Project Begin and How Long Can My Project Take to Complete?
- What Must I Do During and After Construction?
- Is a Variance Possible?
- Relevant Provisions of the Town Code

## **Do I Need a Town Building Permit to Construct, Replace, or Modify a Projection? (Sec. 4-2(a))**

Yes. A Town building permit is required to construct, replace, or modify a projection.

## **Where Can I Locate My Deck, Porch, and Other Projections? (Sec. 4-4(e))**

Where your proposed deck, porch, or other projection can be located depends on where your front, rear, and side setbacks are located. The Town's building code regulates the setbacks for your lot. Please see the *Additions* chapter for a general discussion about setbacks and the *Calculations* chapter for a more detailed discussion. In general, no part of your house may extend beyond the front, rear, and side setback lines; however, an exception is made for certain specified projections, including porches, stoops, decks, steps leading to them, oriel entrances, vestibules, balconies, and outside stairways (and other types of projections discussed in the *Additions* and *New Houses* chapters). How far these projections may extend beyond setback lines depends, in part, on whether the projection is covered or uncovered.

Beside setback requirements, the location of healthy canopy trees on your lot may constrain where you can build. The Town prohibits the removal of healthy canopy trees unless special permission is granted by the Town Council. Although you may apply for a permit to remove a regulated tree, you are strongly encouraged to design your project so that removal is unnecessary. See the *Trees* chapter for more information.

- Porches, stoops, decks, and steps

On interior lots, the Town allows porches, stoops, decks, and steps that lead up to them to extend up to 9 feet beyond the front and rear setback lines and up to 3 feet beyond a side setback line, provided they are open and uncovered. If a porch, stoop, deck, or staircase is enclosed, no part of it can extend beyond the minimum setback lines. The roof on a projection of this type may extend only 3 feet beyond the rear and side setback lines. The Town allows a first-floor roof of such a structure to project 9 feet beyond the established building line if the roof is at least 13 feet from the side property lines. If you have a corner lot, please consult the Town staff for assistance as the rules for corner lots are different.

- Oriel entrances, vestibules, bay windows and balconies

In general, the Town permits oriel entrances, vestibules, bay windows or balconies to project up to 3 feet beyond the minimum front or rear setback. Note, however, that the rule applies only to structures that are no more than 10 feet in width and 1 story in height; otherwise standard setback requirements apply. Certain other exceptions apply as well. See the Town Code or ask Town staff for assistance.

- Outside stairways

Outside stairways such as an unenclosed fire escape can extend up to 5 feet beyond the rear setback line; they cannot extend beyond the side or front setback lines.

- At/below grade improvements

Improvements such as egress window wells and areaways that project less than 12 inches above the adjacent grade are considered to be at-grade improvements and are not subject to setback requirements.

## **How Large Can My Deck, Porch, or Other Projection Be? (Sec. 4-3(b) & (c))**

If the projection you are building is unenclosed, its size is unregulated by the Town. If it is enclosed (this includes screened areas), the Town regulates it. Specifically, the gross floor area of the enclosed projection, combined with the gross floor area of your house and accessory buildings, cannot exceed the gross floor area allowed on your lot. Montgomery County limits the size of both enclosed and unenclosed projections by limiting the percentage of a lot that can be covered by buildings.

The *Calculations* chapter provides more information about both types of restrictions, but you will need to check with Montgomery County to determine exactly how your projection might be affected by County regulations.

## **Can I Replace a Non-Conforming Projection? (Sec. 4-7)**

A non-conforming projection such as a deck, porch, or stoop can be altered, repaired, or replaced without a variance. Such non-conforming projections, however, cannot be enlarged beyond the dimensions that existed prior to May 17, 2008. Note that while you don't need a variance

to replace a nonconforming projection, you do need a Town building permit.

### **What Must I Do to Protect Trees? (Secs. 29-4, 29-12 & 29-13)**

Town regulations require that all regulated trees on your lot, and all trees on neighboring lots or in the public right-of-way, be protected from harm by your construction activities. If a tree cannot be protected or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit only if the tree is not a canopy tree (as defined by the Town) or it is dead, dying, or hazardous; otherwise you must obtain approval from the Town Council to remove the tree or you will have to modify your plans. When you file your Town building permit application, you will have to submit a Tree Protection Plan, which describes the measures that will be implemented to protect trees from any harmful effects of your project. See the *Trees* chapter for more details.

### **What Documentation Must I Submit to Obtain Town Permits? (Sec. 4-2)**

Different types of projects require different sets of documentation to be submitted with the Town building permit application. See the *Permitting* chapter for a full discussion.

### **What Town Permits Will I Need? (Sec. 4-2)**

You will need a Town building permit to construct, demolish or replace these structures. Usually such projects involve several types of activities (demolition, a dumpster or storage container, disruption of the public right-of-way, construction, etc.) all of which require a Town building permit. You may obtain separate permits for each activity or one permit that encompasses all of them. The Town's building permit can only be issued after a building permit from Montgomery County has been issued. If you propose to remove a regulated tree, you also must obtain a Town Tree Removal Permit. For more details see the *Permitting* and *Trees* chapters.

### **When Must My Project Begin and How Long Can My Project Take to Complete? (Sec. 4-2(h))**

You must begin your project no later than 6 months after the Town building permit is issued. You must complete it by the date specified in your Town building permit application, but no later than 12 months after

the building permit was issued. The Town Manager is authorized to issue an extension if he/she deems it necessary.

### **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details.

### **Is a Variance Possible? (Secs. 4-60 & 28-10)**

If some aspect of your proposed project is not in compliance with the Town's building code or water drainage ordinance you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

### **Relevant Provisions of the Town Code**

#### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-3 (Building height, massing, and neighborhood compatibility)
- Sec. 4-4 (Building location requirements; prohibitions)
- Sec. 4-7 (Developmental nonconformities)
- Sec. 4-8 (Protection of streets, sidewalks, etc.)
- Sec. 4-60 (Variances requests)

#### In Chapter 29 (Urban Forest):

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 8

### Pools, Outside Hot Tubs, and Tennis Courts

A Town building permit is required for the construction of pools, outside hot tubs, and tennis courts. You will also need to obtain a Montgomery County building permit. You also may need a Tree Protection Plan, a Tree Removal Permit, and a Water Drainage Plan, depending on your construction characteristics. If your outdoor pool, therapeutic bath or tennis court is to be covered (in other words, if you intend to construct a building over the site), please see the *Accessory Buildings* chapter for more details.

#### What's in this Chapter?

- Where Can I Build?
- How Big Can I Build?
- What Must I Do to Protect Trees?
- What is a Water Drainage Plan and Do I Need One?
- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?
- What Must I Do During and After Construction?
- Relevant Provisions of the Town Code

#### Where Can I Build?

The Town has no location requirements applicable to the construction of pools, outdoor therapeutic baths and tennis courts. Its setback rules do not apply.

#### How Big Can I Build?

The Town does not restrict the size of a pool, outdoor therapeutic bath or tennis court. Check with Montgomery County for any such restrictions.

## **What Must I Do to Protect Trees? (Secs. 29-4, 29-12, 29-13)**

Town regulations require that all regulated trees on your lot, and all trees on neighboring lots or in the public right-of-way, be protected from harm by your construction activities. If a tree cannot be protected or you propose to remove it, you must apply for a Town Tree Removal Permit. The Town Manager may issue a removal permit only if the tree is not a canopy tree (as defined by the Town) or it is dead, dying, or hazardous; otherwise you must obtain approval from the Town Council to remove the tree or you will have to modify your plans. When you file your Town building permit application, you will have to submit a Tree Protection Plan, which describes the measures that will be implemented to protect trees from any harmful effects of your project. See the *Trees* chapter for more details.

## **What is a Water Drainage Plan and Do I Need One? (Sec. 28-3 & 28-4)**

A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of the storm water generated by your proposed development on neighboring properties and the measures that will be used to manage water drainage. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's already overloaded storm water system. If your proposed project (together with any other development project within the past 2 years) will add 700 or more square feet of impervious surface to your lot, a civil engineer or land surveyor must develop, the Town must approve, and you must implement a Water Drainage Plan. Details about the technical specifications for the drainage system can be found in the Town Code and on the Town's web site. Please note that the surface of a pool does not count towards the 700 square foot threshold for requiring a water drainage plan, as pools do not produce runoff. You are encouraged to consult with Town staff about the requirements. See the *Water Drainage* chapter for more information.

## **What Documentation Must I Submit to Obtain a Town Permit? (Sec. 4-2)**

Different types of projects require different sets of documentation to be submitted with the Town building permit application. See the *Permitting* chapter for more information.

## **What Town Permits Will I Need? (Sec. 4-2)**

You will need a Town building permit to construct a pool, outdoor therapeutic bath, or tennis court. Usually several types of activities will be involved (demolition, a dumpster or storage container, disruption of the public right-of-way, construction, etc.) all of which require a Town building permit. You may obtain separate permits for each activity or one permit that encompasses all of them. The Town's building permit can only be issued after a building permit from Montgomery County has been issued. If you propose to remove a regulated tree, you also must obtain a Town Tree Removal Permit. For more details see the *Permitting* and *Trees* chapters.

## **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)
- Sec. 4-8 (Protection of streets, sidewalks, etc.).

### In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water Drainage Plan)

### In Chapter 29 (Urban Forest):

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 9

### Front Yards in the Town

When the subdivision that became the first section of the Town was conceived by the Chevy Chase Land Company, a landscape architect was hired to create a plan that centered around open green areas with single family houses setback from winding streets. To ensure that the plan would be maintained as the subdivision developed, covenants were written into the deeds to the land when the lots were sold. Eventually, the Town was incorporated and today, this vision is maintained both through the original covenants and by ordinances in the Town Code. The chapters that follow this one involve the rules that govern front yards.

Town ordinances require that only 35% of the area in a front yard can be non-vegetative or paved over. The 35% rule is outlined in Chapter 10.

Only one 10' wide driveway is allowed in front yard of each house in the Town. This and other rules about driveways are outlined in Chapter 11.

The openness of the landscape in the front of homes in the Town is enhanced by rules against fences, walls and hedges. These requirements and others are explained in Chapter 12.

The streets in the Town are built in the public right-of-way. Many people are not aware that this public property often is larger than the street and contains the sidewalks and the ground between the street and the sidewalk. It may also include some part of the land next to the street or sidewalk that may be thought of as part of the lot on which a house is built. The *Public Right-of-Ways* chapter discusses regulations related to this topic.

Many people put underground pipes (for sprinklers), wires (for dog fences), and other things in the public right-of-way. The Town regulates these and Chapter 14 explains what is required.

## Chapter 10

### 35 Percent Front Yard Rule

To maintain the Town's unique character and natural beauty, the Town limits the nonvegetative area in your front yard to 35%. Under this "35% rule" you will be able to have a 10 foot wide driveway and a walkway from your front door to the street and in most cases, some other nonvegetative areas as well.

#### What's in this Chapter?

- How is a "Front Yard" Defined?
- How Much of My Front Yard Can Be Paved or Covered With Nonvegetative Material?
- What If My House Is On a Corner? How Does the 35 Percent Rule Apply To It?
- Relevant Provisions of the Town Code

#### How is a "Front Yard" Defined? (Sec. 4-3(e))

The part of your property that is considered to be front yard for purposes of the 35% rule is the area that lies between the "front walls" of your house and your front lot line. A yard that abuts an alley is not considered a front yard and is not affected by these regulations.

#### How Much of My Front Yard Can Be Paved or Covered With Nonvegetative Material? (Sec. 4-3(e))

The nonvegetative surface area in your front yard cannot exceed 35 percent of the total front yard area. An exception exists for front yards that were out of compliance with the rule on November 10, 2010. You may maintain the nonvegetative surface areas of those yards, as well as alter, repair and replace them using different materials. Their dimensions, however, cannot be enlarged from those that existed as of November 10, 2010.

## **What If My House Is On a Corner? How Does the 35 Percent Rule Apply To It? (Sec. 4-3(e))**

Corner lots are considered to have two front yards, each facing a different roadway. The 35 percent rule applies to both front yards combined. This means that the nonvegetative area in one of your front yards may exceed 35%, provided it is sufficiently under 35% in the other front yard.

### **Relevant Provisions of the Town Code**

In Chapter 4 (Buildings):

- Sec. 4-3(e) (Maximum nonvegetative surface area)

# Chapter 11

## Driveways

Driveway construction is regulated by the Town's building code. You must get a Town building permit to expand or replace an existing driveway or to construct a new one. Montgomery County does not require you to get a county building permit, but your driveway must be installed in accordance with county construction standards in effect when the Town permit is issued. Construction details are available on the County web site. This chapter describes the Town's driveway regulations, including regulations about the effect of driveway construction on trees, water drainage, and the amount of nonvegetative surface area in a front yard.

### What's in this Chapter?

- How Many Driveways Can I Have?
- How Wide a Driveway is Permissible?
- How is a Driveway Measured?
- If My Driveway is Shared, How Wide Can It Be?
- Who is Responsible for Constructing Driveways and Paying Construction Costs?
- Who Pays for Repairs and Maintenance?
- What Is a Water Drainage Plan and Do I Need One?
- What Documentation Must I Submit to Obtain a Town Permit?
- What Town Permits Will I Need?
- What Must I Do During and After Construction?
- Is a Variance Possible?
- Relevant Provisions of the Town Code

## How Many Driveways Can I Have?

The Town permits only 1 driveway per property and a single curb cut at a street. The construction of an additional driveway is not allowed, even if your property is served by a *shared driveway* (a driveway that serves more than one property). (Sec. 4-9) Note: although you cannot add a second driveway, if you have a shared driveway, you may be able to widen the portion of it that is on your property (see If My Driveway is Shared, How Wide Can it Be?).

## How Wide a Driveway is Permissible? (Sec. 4-9)

The driveway on your property generally can be no wider than 10 feet in front of the front building line, but there are several exceptions:

- The 10-foot restriction does not apply to lots with frontage on Bradley Lane, Connecticut Avenue or East West Highway.
- The Town includes adjacent improved surfaces in the driveway width calculation unless there is a two foot buffer between the driveway and adjacent surface or if there are retaining walls that would prevent the adjacent area from being accessed by a vehicle. An exception is made for a walkway no wider than 4 feet where it connects to the driveway. If your driveway was wider than 10 feet on or before May 17, 2008, it is considered to be legally nonconforming and can be repaired and replaced, but not expanded.
- Your driveway apron (the portion of the driveway that widens near the driveway's intersection with the street to support a car's turning movements) is permitted to add 5 feet to the driveway width (2½ feet on each side of the driveway). Thus, at the point where the driveway meets the street, your driveway plus the apron, can be a maximum of 15 feet in width.

## How is a Driveway Measured? (Sec. 4-9)

The measurement of the width of a driveway or driveway apron shall be made from one (1) edge of the driveway or driveway apron to the other edge. Driveway and driveway apron width shall be measured parallel to the front property line.

## If My Driveway is Shared, How Wide Can It Be? (Sec. 4-9)

A shared driveway is a driveway that serves more than one property. The Town allows a shared driveway to be a maximum of 20 feet in width, with a maximum of 10 feet on each property. When its apron is included, a shared driveway can be a maximum of 25 feet in width; that is, the driveway itself can be as wide as 20 feet and its apron can be as wide as two and one-half-feet on each side of the driveway.

### **Who is Responsible for Constructing Driveways and Paying Construction Costs? (Sec. 4-9)**

The property owner is responsible for all costs associated with constructing a new driveway or expanding an existing driveway, including the cost of that portion of the driveway and its apron located within the public-right-of-way.

### **Who Pays for Repairs and Maintenance? (Sec. 4-9)**

The property owner is responsible for the cost of driveway maintenance and repair on private property. For that portion of the existing driveway and its apron located within the public right-of-way, the Town will pay the cost of maintenance and repair that arises from the driveway's normal and ordinary use. If, however, the maintenance or repair is triggered by unusual use of the driveway by the property owner or guests, the costs will be entirely the property owner's responsibility.

Be aware that the Town does not consider the use of a driveway by trucks or construction equipment to be ordinary use. This means that if such vehicles and equipment damage your driveway where it crosses the public right-of-way, you will be responsible for the cost of those repairs.

Please note also that if you remove a driveway, you will be responsible for restoring the area within the public right-of-way and be required to install a curb, sidewalk, grass or other natural cover, whichever of those may be consistent with the surrounding area.

### **What is a Water Drainage Plan and Do I Need One? (Sec. 28-3 & 28-4)**

You may be required to have a Water Drainage Plan if you are constructing a new driveway, expanding an existing driveway, or paving a formerly unpaved driveway. The Plan will be required if the driveway construction plus all other construction on your property within the past two years results in more than 700 square feet of new impervious surface area. A Water Drainage Plan is both a plan for managing the flow of storm water from your property and a report that discusses the impact of

the storm water generated by your proposed development on neighboring properties and the measures that will be used to manage water drainage. The Town requires the Plan to ensure that increased storm water run-off from your property will not adversely impact neighboring properties or increase the burden on the Town's already overloaded storm water system. When required, a civil engineer or land surveyor must develop a water drainage plan for review and approval by the Town. The approved plan is incorporated as a condition of the Town building permit. Details about the technical requirements of the water drainage ordinance can be found in the Town Code and on the Town's web site. You are encouraged to consult with Town staff about the requirements. See the *Water Drainage* chapter for more information.

### **What Documentation Will I Need? (Secs. 4-2)**

Different types of projects require different sets of documentation to be submitted with the building permit application. See the *Permitting* chapter for more information.

### **What Town Permits Will I Need? (Secs. 4-2)**

You will need a Town building permit. The Town building permit can encompass multiple construction activities such as the disturbance of the public right-of-way, the use of a dumpster or storage container, and demolition. If your project requires the removal of regulated trees, a Tree Removal Permit must be obtained from the Town before they can be removed. See the *Permitting* and *Trees* chapters for more information.

### **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* Chapter for more details.

### **Is a Variance Possible? (Secs. 4-60)**

If some aspect of your proposed project is not in compliance with the Town's building code or water drainage ordinance you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-9 (Driveways)
- Sec. 4-60 (Variances from requirements of building restrictions)

### In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)

## Chapter 12

### Guardrails, Handrails, Access Ramps and Wheelchair Lifts

A guardrail is a railing located along the top of a retaining wall. A handrail is a railing grasped by the hand for support, located along a walkway, steps, outside stairway, access ramp, or wheelchair lift. Installation or replacement of guardrails, handrails is regulated by the Town building code.

An access ramp is a ramp that provides access to a building for a disabled person. A wheelchair lift is a lift that provides access to a building for a disabled person. Installation and replacement of access ramps and wheelchair lifts is regulated by the Town's building code. The Town adopted regulations permitting the construction of access ramps and wheelchair lifts that project into rear, side, and front setbacks so that residents can construct the ramps needed to make their homes usable. The regulation was needed as a variance cannot be granted for construction of ramps or lifts that extend into a setback because mobility impairment does not constitute grounds for a variance,

#### What's in this Chapter?

- When do I need a Town permit to install a guardrail, handrail,
- How are guardrails and handrails regulated?
- How are handicap access ramps and wheelchair lifts regulated?
- What documentation must I submit to obtain a Town permit?
- What Town permits do I need?
- What must I do during and after construction?
- Is a variance possible?
- Relevant provisions of the Town Code.

#### When Do I Need a Town Permit to Install a Guardrail, Handrail, Access Ramp, or Wheelchair Lift?

You need a Town building permit to (Sec. 4.2(a)):

- Install a new or replacement guardrail.
- Install a new or replacement handrail in the public right-of-way.
- Install a new or replacement access ramp.
- Install a new or replacement wheelchair lift.

You do not need a Town permit to install a new or replacement handrail on your property. However, many people are not aware that the public right-of-way usually includes the sidewalks and the ground between the street and the sidewalk and that it may also include some part of the land next to the street or sidewalk that may be thought of as part of the lot on which a house is built. **The *Public Right-of-Ways* chapter discusses regulations related to this topic.**

### **How are Guardrails and Handrails Regulated?**

By definition, a guardrail may be no more than 38 inches high, must have a fenestration of at least 70 percent, may have no gate, and must be located along a retaining wall (Sec. 4-1). A railing that does not meet these criteria is considered to be a fence.

Guardrails may not be installed in a front yard or in the public right-of-way (Sec. 4-51 (a) and Sec. 4-52 €. However, the town manager and mayor may grant an administrative variance for a new, relocated, or replacement front-yard guardrail, provided it is located along only the portions of the retaining wall that are 30 inches or more in height (Sec. 4-60 © (3)).

By definition a handrail may be no more than 38 inches high and must be located along a walkway, steps, outside stairway, access ramp, or wheelchair lift. No Town permit is needed to install a handrail on private property. A Town building permit is required to install a handrail in the public-right-of-way.

### **How are Access Ramps and Wheelchair Lifts Regulated?**

An open and uncovered access ramp or wheelchair lift, and any associated handrails may project into the front, side, or rear setback if (Sec. 4-4 (e)(4)):

1. The access ramp, wheelchair lift, and associated handrails cannot reasonably be constructed without projecting into the setback;

2. The projection into the setback is the minimum distance needed; and
3. The access ramp or wheelchair lift has the minimum dimensions needed to comply with the Americans with Disabilities Act.

## **What Documents Do I Submit to Obtain a Town Permit?**

Different types of projects require different sets of documentation to be submitted with the Town building permit. See the *Permitting* chapter for more information.

## **What Town Permits Will I Need? (Secs. 4-2)**

You will need a Town building permit. The Town building permit can encompass multiple construction activities such as the use of a dumpster or storage container, and demolition. If your project requires the removal of regulated trees, a Tree Removal Permit must be obtained from the Town before they can be removed. See the *Permitting* and *Trees* chapters for more information.

## **What Must I Do During and After Construction? (Sec. 4-8)**

The Town has various regulations concerning the hours of construction, construction site management, tree protection, sidewalk, street, and other public right-of-way disturbances, noise, etc. Please see the *Site Management* chapter for more details.

## **Is a Variance Possible? (Secs. 4-60 & 28-10)**

If some aspect of your proposed project is not in compliance with the Town's building code you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. An administrative variance may be granted for a front-yard guardrail. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-2 (Building permit, in general)
- Sec. 4-4 (Building location requirements; prohibitions)

- Sec. 4-47 (Removal of structures, fences, walls, wires, cables, hoses, pipes, and similar facilities, trees, earth berms, hedges, shrubbery and other plant growth in violation)
- Sec. 4-48 (Permit application)
- Sec. 4-51 (Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth, on public property that are devoted to private use)
- Sec. 4-52 (Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property)
- Sec. 4-53. (Nonconforming fences, walls, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth.
- Sec. 4-60. Variances for requirements of building regulations.

## Chapter 13

### Fences, Walls and Hedges

Fences, walls, front yard hedges, and some plantings located on private property are regulated by the Town. The regulations serve the dual purposes of promoting public health and safety while preserving the Town's overall character, appearance and beauty. The construction of certain fences and walls requires a Town building permit and a County building permit. The planting of front yard hedges and shrubs in certain locations requires a Town building permit only. The location and height of certain plants, fences, or walls also are restricted. This chapter describes the regulations pertaining to placement of structures, fences, walls, and plantings on your property. Chapter 13 addresses their placement within the public right-of-way. Note that a portion of what appears to be your front yard may actually be part of the public right-of-way.

#### What's in this Chapter?

- When Do I Need a Town Permit to Build a Fence or Wall, to Plant a Hedge, or to Put in Other Landscaping on My Property?
- Are Fences Allowed in My Front Yard?
- Are There Height Limits on Fences in My Rear and Side Yards?
- Can I Build a New or Replacement Wall in My Front Yard?
- Are Hedges Allowed in My Front Yard?
- How Close to a Sidewalk or Curb Can I Plant a Tree or Hedge on My Property?
- Is There a Limit on the Height of Plants Along a Street, Alley or Sidewalk?
- What Happens If My Fence or Wall or My Hedges Don't Conform to Town Requirements?
- What Documentation Must I Submit to Obtain a Town Permit?
- Is a Variance Possible?
- Relevant Provisions of the Town Code

## **When Do I Need a Town Permit to Build a Fence or Wall, to Plant a Hedge, or to Put in Other Landscaping on My Property? (Secs. 4-2 & 4-48)**

You need a Town building permit to:

- Build a new or replacement fence;
- Build a new or replacement wall;
- Plant a hedge in your front yard;
- Build any structure along a sidewalk, street or alley; and
- Plant a tree, hedge or any type of shrubbery along a sidewalk, street or alley.

To build a new fence, you will need to obtain a building permit from the Town and from Montgomery County (no County permit is required for replacement fences). The Town requires a permit for any wall that measures 12 inches or higher. In addition, Montgomery County requires a permit for any wall taller than 30 inches.

## **Are Fences Allowed in My Front Yard? (Sec. 4-52 and 4-53)**

Fences are not allowed in the front yard. The Town does allow non-conforming fences in front yards to be replaced if the location is not changed, no dimension is enlarged, and the fenestration is not decreased.

## **Are There Height Limits on Fences?**

Fences cannot be more than 6 feet, 6 inches in height, except fences along a rear property line of a lot adjoining a rail line right-of-way may be 8 feet in height.

## **Can I Build a New or Replacement Wall in My Front Yard?**

A retaining wall less than 30 inches in height is allowed in the front yard if it is setback at least 2 feet from any sidewalk, or 6 feet from any curb (if there is no sidewalk). All other new walls and replacement walls that are not retaining walls are not allowed.

Existing retaining walls may be replaced provided that the height and location are not changed.

## **Are Hedges Allowed in My Front Yard? (Sec. 4-52)**

A hedge is defined to be a dense row of shrubs, trees, or other plant material. Generally, tall front-yard hedges are not permitted. The Town will grant a permit for a front yard hedge, provided:

- The hedge will not exceed 6 feet in height at any time and is planted on a property fronting on Bradley Lane, East West Highway or Connecticut Avenue,
- The hedge will not exceed 3 feet in height at any time and is planted in the front yard of any property in Town.

The Town Manager may impose additional conditions on the front yard hedge permit as deemed appropriate.

The Town Council may revoke approval of a front yard hedge.

## **How Close to a Sidewalk or Curb Can I Plant a Tree or a Hedge on My Property? (Sec. 4-52)**

The plants on your property must not extend into a sidewalk, street or alley, interfere with pedestrian or vehicular traffic, or obstruct the view of approaching traffic.

## **Are there setback requirements for retaining walls in rear and side yards? (Sec. 4-52)**

Retaining walls in rear and side yards must be set back two feet from any property line, unless the wall is less than 30 inches in height and constructed along a driveway.

## **What Happens if My Fence or Wall or My Trees and Hedges Don't Conform to Town Requirements? (Secs. 4-47 & 4-53)**

There are two exceptions that allow nonconforming structures and plants to be maintained as they now exist:

- Nonconforming walls, fences, plant growth, etc. that existed as of November 8, 1986, can be maintained and repaired, as needed, but their replacement or relocation is not allowed.

- A nonconforming retaining wall located in a front yard can be altered and replaced, if it is not enlarged and its location remains unchanged. Otherwise, the wall must fully conform to current Town requirements.

If these exceptions don't apply to you, any replacement or relocation of nonconforming structures or plants will need to fully conform to Town regulations.

## **What Documentation Must I Submit to Obtain a Town Permit?**

Different types of projects require different sets of documentation to be submitted with the Town building permit. See the *Permitting* chapter for more information.

## **Is a Variance Possible? (Secs. 4-60 & 28-10)**

If some aspect of your proposed project is not in compliance with the Town's building code you may apply for a variance. Variances are difficult to obtain, but are granted under certain circumstances. Please see the *Variances* chapter for details about the conditions under which variances may be granted and information about how to apply for one.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)
- Sec. 4-47 (Removal of structures, fences, walls, wires, cables, hoses, pipes, and similar facilities, trees, earth berms, hedges, shrubbery and other plant growth in violation)
- Sec. 4-48 (Permit application)
- Sec. 4-51 (Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth, on public property that are devoted to private use)
- Sec. 4-52 (Structures, walls, fences, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth on private property)
- Sec. 4-53. (Nonconforming fences, walls, guardrails, handrails, berms, trees, hedges, shrubbery and other plant growth)

## Chapter 14

### Public Right-of-Ways

The public right-of-ways, all of which are under the Town jurisdiction, include streets, alleys, sidewalks, improved or unimproved pathways, curbs, gutters, planting strips, etc. It is likely that part of what appears to be your front yard is actually public right-of-way. Your plat may show the location of the public right-of-way and your front lot line; a boundary survey will show them. This chapter describes how your use of the public right-of-way is regulated by the Town.

#### What's in this Chapter?

- Am I Responsible for Any Portion of the Public Right-of-way?
- Do I Need a Building Permit if My Construction Will Affect or Disturb a Public Right-of-way?
- Do I Need a Building Permit to Run Overhead Wires to My House? How About an Underground Pipe or Wire That Will Cross a Public Right-of-way?
- What Can I Plant or Build in the Public Right-of-way that Abuts My Lot??
- How Close to a Curb Can I Plant a Tree or a Hedge?
- Is There a Limit on the Height of Fences, Walls, and Plants located Along a Public Right-of-way Such as a Street, Alley or Sidewalk?
- What if I Violate the Right-of-way Rules and Accidentally Encroach Upon It?
- Relevant Provisions of the Town Code

#### **Am I Responsible for Any Portion of the Public Right-of-way? (Sec. 4-49)**

The Town is responsible for maintaining most of the public right-of-way, such as sidewalks, streets and alleys. But the maintenance of public property that abuts your property can be your responsibility. For example, if there is a space or area between your property and a public

sidewalk or curb, you are responsible for the maintenance of that area. The general rule is that you are responsible for the care and maintenance of any portion of a public right-of-way that abuts your property, if it is not improved with a sidewalk, a paved roadway, or other public improvement. Note too that along with this responsibility comes your right to use the public property, as long as your use doesn't violate the Town Code.

### **Do I Need a Town Building Permit if My Construction Will Affect or Disturb a Public Right-of-way? (Sec 4-2)**

Any time construction may disrupt a street, sidewalk, curb, gutter, or other portion of the public right-of-way, a Town building permit for a public right-of-way disturbance is required (but not a County permit). Except for work confined to curb cuts, a right-of-way usage license also is required. Your application for a building permit to disturb a public right-of-way requires the submission of a complete set of construction drawings, a performance bond, and a (signed) Building Permit Conditions form.

A building permit for a public right-of-way disturbance can be included as part of a building permit issued for other reasons, such as a permit to build an addition to your house or to construct a wall. A separate Town building permit for a right-of-way disturbance will not be required in such cases.

See the *Permitting* chapter for further details.

### **Do I Need a Building Permit to Run Overhead Wires to My House? How About an Underground Pipe or Wire That Will Cross a Public Right-of-way? (Secs. 4-47 & 4-51)**

Except for public utility work, building permits are required whenever overhead and underground wires, cables, hoses, pipes and similar facilities will encroach on the public property (for example, installing a sprinkler system or an invisible dog fence). If public property is not crossed or otherwise involved in the installation, no permit is required. In addition to a building permit, you'll need a license to use the public right-of-way to install or replace these facilities. *See the Sprinkler System and Invisible Fences* chapter for details.

## **What Can I Plant or Build in the Public Right-of-way that Abuts My Lot? (Sec. 4-50)**

Low growing plants that are not hedges, which are maintained at a height not to exceed 18 inches, may be planted within 6 feet of a curb at the edge of a street, within 3 feet of a sidewalk on the street side and within 2 feet of a sidewalk on the main building side. Other shrubbery except trees and bamboo may be planted in other portions of the right-of-way. No walls, fences guardrails, handrails, or other structures can be built in the public right-of-way. Several exceptions exist.

- Plants and structures that existed prior to July 13, 2007 can be maintained in the public right-of-way, if they do not interfere with traffic on a sidewalk or roadway. The Town prohibits their replacement, however or their enlargement;
- Any retaining wall located in the public right-of-way and devoted to private use may be maintained, altered, repaired, and replaced, if it is neither enlarged nor its location changed.
- Handrails may be installed in the public right-of-way with a Town building permit.

## **What if I Violate the Right-of-way Rules and Accidentally Encroach Upon a Public Right-of-way? (Sec. 4-52)**

It is your responsibility to know the boundary between your property and the public right-of-way. If questions about the boundaries arise, ask the Town Office for assistance. Note that the Town will order you to remove any item found on public property that is in violation of the Town Code for which you are responsible.

## **Relevant Provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-2 (Building permit, in general)
- Sec. 4-47 (Removal of structures, fences, walls, wires, cables, hoses, pipes, and similar facilities, trees, earth berms, hedges, shrubbery and other plant growth in violation)
- Sec. 4-48 (Permit application)
- Sec. 4-50 (Structures, walls, fences, earth berms, trees, hedges, shrubbery and other plant growth, on public property that are devoted to private use)

- Sec. 4-51 (Overhead or underground wires, cables, hoses, pipes, and similar facilities on public property devoted to private use)
- Sec. 4-52 (Structures, walls, fences, earth berms, trees, hedges, shrubbery and other plant growth on private property)

## Chapter 15

### **Sprinkler Systems and Invisible Dog Fences**

Sprinkler systems and electronic pet fences rely on underground wires, pipes and similar facilities. As long as the wires, cables, hoses, pipes, etc. used in these facilities do not encroach on the public right-of-way, they are not regulated by the Town (although the trenching used to install them may require a tree protection plan). Their encroachment on public right-of-ways, however, triggers provisions of the Town Code.

#### **Do I Need a Building Permit to Install a Sprinkler System or Invisible Dog Fence? (Sec. 4-51)**

A building permit is unnecessary if the installation of overhead or underground wires, cables, hoses, pipes, etc. do not encroach on the public right-of-way. In fact, for public safety reasons, these facilities ideally should be confined entirely to private property whenever possible and be set back two or more feet from any public right-of-way. Town regulations do permit them to be installed in the public right-of-way but a Town building permit and a license is required. The building permit will contain a contract provision that holds the Town harmless from loss, injury or damage related to any such facilities. In other words, the work will be performed at your own risk. It is recommended that you call Miss Utility to ensure safe installation prior to performing any work. The Town also is not responsible for any damage to the system that may occur should work be necessary in the public right-of-way.

#### **Relevant Provisions of the Town Code**

##### In Chapter 4 (Buildings):

- Sec. 4-51 (Overhead or underground wires, cables, hoses, pipes, and similar facilities on public property devoted to private use)

## Chapter 16

### Trees

The Town is dedicated to the protection of canopy trees, which are viewed by residents and nonresidents alike as one of the Town's best assets. The Town backs its commitment with a variety of different programs aimed at protecting trees on both public and private property. It even employs an arborist, whom residents may consult free of charge about the health and physical condition of trees on their property (please contact the Town for information on this program). To further its goal of maintaining a leafy green canopy, the Town requires the creation of a Tree Protection Plan whenever an activity poses a potential risk to a canopy tree. If a proposed project calls for the destruction or removal of a regulated tree, a Tree Removal Permit is required.

Before you make your plans, it's a good idea to look at the trees on your property and consider how your project may affect them.

#### **What's in this Chapter?**

- Are All Trees Protected From Development Activity in Town?
- How Does the Town's Interest in Protecting Trees Impact Me?
- What Types of Activities Might Pose a Threat to a Canopy Tree?
- What Does a Tree Protection Plan Contain?
- What Happens Once a Plan is Submitted?
- When Do I Need a Tree Removal Permit?
- What are the Standards for Obtaining a Tree Removal Permit?
- Where Can I Plant a Tree?
- Relevant Provisions of the Town Code

## **Are All Trees Protected From Development Activity in Town? (Sec. 29-3 & 29-4)**

The Town protects all regulated trees, which it defines as any tree with a trunk measuring 24 inches in circumference or larger measured at 4½ feet above the ground. If a tree divides into branches at less than 4½ feet, the trunk is measured immediately below the dividing point. Twenty-four inches around isn't very big - about 7 ½ inches in diameter.

## **How Does the Town's Interest in Protecting Trees Impact Me? (Secs. 29-11, 29-12, & 29-13)**

Any time a project poses a potential risk to a regulated tree, whether the tree is growing entirely on your own property, on a neighboring property, or in a public right-of-way, you must create and file a Tree Protection Plan with the Town for approval and provide a copy to your neighbors. If your project requires a building permit, the Tree Protection Plan must accompany the building permit application. The approved tree protection plan is incorporated as a condition of the building permit approval. The Town Code makes clear that it is entirely your responsibility to determine if a project threatens a canopy tree.

## **What Types of Activities Might Pose a Threat to a Canopy Tree? (Sec. 29-11)**

Demolition, new construction, and additions/renovations, but also landscaping work (such as construction of driveways, walls, patios, or re-grading) might put canopy trees at risk. When evaluating whether a construction project will put a canopy tree at risk, you should consider potential "invisible" damage to a tree's shallow root system caused by the operation of heavy construction equipment. In that instance, a Tree Protection Plan may entail something as simple as routing construction equipment around a tree's root system.

## **What Does a Tree Protection Plan Contain? (Sec. 29-13)**

A Tree Protection Plan will describe the measures needed to protect canopy trees from any harmful effects of a project. Depending on the type of construction project involved, a Tree Protection Plan must include such things as:

- The size, species, state of health, and accurate location of all trees on the property and their drip lines, as well as trees on neighboring

properties where their drip lines lie over the proposed construction zone.

- A delineation of the tree protection zones and all the trees to be protected, including trees in the town right-of- way.
- The methods by which tree branches and roots are to be protected before construction and the maintenance program for trees to be protected during construction and thereafter.
- The delineation of areas to be excavated, regraded, and/or disturbed, as well as mitigation measures to be used to protect remaining trees if substantial grading changes are proposed.
- The location of any proposed trenching for underground utility lines, as well as the location of any temporary gravel construction access drives and where construction materials and equipment will be stored.
- All trees proposed for removal and the location, species and diameter of each proposed replacement tree.
- Existing and proposed property lines, structures, utility lines, driveways, sidewalks, and other paved surfaces.

Consult the Town Code and Town staff for further details.

### **What Happens Once a Plan is Submitted? (Sec. 29-12)**

Once a plan is submitted, the Town Manager and Town Arborist will review it. Any deficiencies in the plan must be cured before approval can be granted. Once a plan is approved, no work on a project can begin until the plan has been implemented. Ongoing oversight of the plan's implementation will be conducted by Town staff until the project is completed.

### **When Do I Need a Tree Removal Permit? (Secs. 29-3, 29-4, & 29-5)**

A Tree Removal Permit is required whenever you plan to remove a regulated tree. You can get a permit application from the Town Office or from its web site.

### **What are the Standards for Obtaining a Tree Removal Permit? (Secs. 29-6, 29-7, 29-8, 29-9, 29-10)**

The Town employs strict standards for granting a Tree Removal Permit. A permit will be granted only when a regulated tree is not a canopy tree (as defined by the Town), is dead, dying or in danger of falling, or is hazardous. If a permit is denied, you have the option of appealing the decision to the Town Council, as long as you file the appeal within 30 days of the denial. If the Council denies the permit, you can further appeal the decision to the Maryland Courts under rules applicable to it.

### **Where Can I Plant a Tree? (Sec. 4-52)**

The Town encourages residents to add to the urban canopy by planting trees on their property. All trees planted on your property must be set back from the public right-of-way (sidewalks, curbs, grassy areas, streets, alleys, etc.) by at least 2 feet and must be maintained so that they do not interfere with pedestrian or vehicular traffic and do not impede views of approaching traffic. A portion of what appears to be your front yard may actually be part of the public right-of-way. Your plat may show the location of the public right-of-way, a boundary survey will show it. If you're uncertain, the Town staff is available to take a look and make a recommendation. Be sure to consult Miss Utility before you dig so you do not disturb any utilities when you plant the tree.

You may request a canopy tree to be planted on your property through the Town's Native Canopy Tree Planting Program. Depending on budgetary considerations, the Town will make available a certain number of trees on a first-come, first-serve basis. The Town arborist will visit each resident, in the order of request, to evaluate whether there is an appropriate location on the property for a new canopy tree and to recommend a suitable species. Five to six species of canopy trees may be available through the program, some of which may be planted only in the spring or fall months. When the program is available, the Town buys the trees, pays for the service to plant them, and provides a water bag to assist residents with the care needed in the critical first year after planting. Residents will be responsible for the long-term care of the tree(s) once planted. A request form is available on the Town's web site. For more information about the program, contact the Town Office.

### **Relevant Provisions of the Town Code**

In Chapter 4 (Building Regulations):

- Sec. 4-52 (Structures, Walls, Fences, Earth berms, Trees, Hedges, Shrubbery and other plant growth on private property)

In Chapter 29 (Urban Forest):

- Sec. 29-3 (Trees Included)
- Sec. 29-4 (Permit Required)
- Sec. 29-5 (Permit Procedure)
- Sec. 29-6 (Permit Standards)
- Sec. 29-7 (Appeals)
- Sec. 29-8 (Appeals Procedures)
- Sec. 29-9 (Factors to be Considered in Evaluating an Appeal)
- Sec. 29-10 (Judicial Review of a Decision of the Town Council)
- Sec. 29-11 (Protection of Trees at Risk)
- Sec. 29-12 (Tree protection plans)
- Sec. 29-13 (Requirements for tree protection plans)

## Chapter 17

### Water Drainage

The Town of Chevy Chase enacted a water drainage ordinance after extensive research and consultation determined that the Town's hilly terrain resulted in many houses being prone to run-off from adjacent properties. In recent years over 225 residents spent on average nearly \$3,000 each to mitigate water problems due to storm water run-off. The fact that the storm drainage system in the Town is very old and poorly documented contributes to the problem. The water drainage ordinance primarily is aimed at mitigating damages from a "3 month" storm event, defined as a storm producing 1.25 inches of rain in a 24-hour period. It was discovered that 90 percent of the potential water drainage problems in Town is caused by such events. The ordinance requires that development activity that results in 700 or more square feet of new impervious surface area on a property be designed with a drainage system that retains storm water on the property, rather than allowing it to run off.

#### **What's in this Chapter?**

- How Does the Water Drainage Ordinance Affect the Development of My Property?
- What Does a Water Drainage Plan Generally Contain?
- What Standards Apply to the Drainage Measures I Use?
- What Documents Must Accompany the Water Drainage Plan?
- After a Water Drainage Plan is Approved, Must I Notify the Town about How the Work is Progressing?
- What Inspections are Conducted?
- What Responsibilities Do I Have to Maintain the Water Drainage System?
- What If My Water Drainage Plan is Not Approved?
- How Does the Variance Process Work?
- Relevant Provisions of the Town Code

## **How Does the Water Drainage Ordinance Affect the Development of My Property? (Sec. 28-3)**

If your proposed project (together with any other development project within the past 2 years) will add 700 or more square feet of impervious surface to your lot, a civil engineer or land surveyor must develop a water drainage plan for review and approval by the Town. The approved plan is made a condition of the building permit.

If you are replacing an existing driveway, you do not need to file a Water Drainage Plan as long as the replacement driveway does not have more impervious surface area than the original driveway.

## **What Does a Water Drainage Plan Generally Contain? (Secs. 28-4 & 28-5)**

A Water Drainage Plan is both a plan for managing the flow of water from a property and a report that discusses 1) the impact that the proposed development has on neighboring properties and the public right-of-way and 2) the effectiveness and acceptability of measures that are proposed for managing water drainage. The plan must be prepared and certified by a Maryland licensed professional civil engineer or land surveyor and meet the basic design criteria, methodologies, and construction standards established by the Maryland Storm Water Design Manual.

## **What Standards Apply to the Drainage Measures I Use? (Secs. 28-4 & 28-5)**

The drainage system must retain all storm water from any new impervious surfaces on a property for a three-month storm event (which produces 1.25 inches of rain over a 24-hour period). For a ten-year storm event (which produces 5.1 inches of rain over a 24-hour period), the drainage system must not allow site run-off to flow at a rate greater than the pre-construction rate to any neighboring properties.

Further specifications include prohibiting open-water retention ponds; requiring that overflow pipes pass under sidewalks and through curbing if they discharge water into the street from a containment vessel; limiting the soil stored on the property to the excavated soil used for foundation backfill; and requiring that such soil be covered to prevent migration onto neighboring properties.

Other technical requirements exist. See the Town Code and consult with Town staff for further details.

### **What Documents Must Accompany the Water Drainage Plan?** (Secs. 28-4, 28-5 & 28-6)

The submittal requirements for a water drainage plan include a completed application form, stormwater volume calculations, construction drawings, maintenance schedule, maintenance agreement, results from an infiltration test, performance bond, and written reports on the potential impacts of the proposed development activity on nearby properties and on the effectiveness and acceptability of measures proposed for managing water drainage. The complete list of documents can be obtained from the Town Office.

### **After a Water Drainage Plan is Approved, Must I Notify the Town about How the Work is Progressing?** (Sec. 28-7)

You are required to notify the Town at least 48 hours in advance of when work approved under the plan begins. You must also notify the Town when the work is completed. The notices trigger certain inspections by the Town Manager.

### **What Inspections are Conducted?** (Sec. 28-7)

Inspections of the work are conducted at various times to ensure compliance with the approved plan. The timing of inspections is outlined in the Town Code based on the type of work being performed. Each inspection results in a written report. If violations are observed, the Town Manager will notify you.

### **What Responsibilities Do I Have to Maintain the Water Drainage System?** (Sec. 28-8)

The current property owner and all successive owners (or any other person who might control the property) are obligated to maintain and repair the water drainage system. This obligation arises from the requirement to execute a binding Inspection and Maintenance Agreement made with the Town. The Town will not issue a building permit unless the Agreement is executed and recorded in the land records of Montgomery County. Please note that if you currently have a mortgage on your property, you must get your mortgage holder to sign off on the maintenance agreement, in the event that they take ownership of the property.

The Agreement allows the Town Manager to order the correction of any violation discovered upon inspection of the water drainage system. Failure to act on the order can result in the Town doing the repair work and billing the property owner for the cost.

### **What If My Water Drainage Plan is Not Approved? (Secs 28-10(a) (b))**

If deficiencies in your proposed Water Drainage Plan arise, the Town staff will work with you to resolve them, when possible. If, despite this, your Water Drainage Plan does not meet the technical requirements of the ordinance, you may apply for a variance from the ordinance to be heard by the Town Water Board. If you feel that the Town Manager and Town Engineer made errors in reviewing a plan, you may appeal their decision to approve or deny an application to the Town Water Board.

### **How Does the Variance Process Work? (Secs. 28-9, 28-10(a), 28-11 & 28-12)**

A variance application can be filed with the Town Office. The decision to grant or deny the application will be made by the Town's Water Board, after a public hearing. The Water Board can grant the variance only if it determines that engineering difficulties exist that create an undue hardship to the applicant. Moreover, in granting the variance, the Board must be convinced that it would not be detrimental to any nearby property, to any public right-of-way, or to the overall purpose and intent of the Town's regulations in this area. The Town notifies neighbors and other Town residents that a public hearing will take place. Members of the public may participate at the hearing.

Any decision of the Water Board can be appealed to the Maryland Courts within 30 days of the decision.

See the Chapter entitled "Variances" for more details.

### **Relevant Provisions of the Town Code**

#### In Chapter 28 (Water Drainage):

- Sec. 28-2 (Definitions)
- Sec. 28-3 (Applicability)
- Sec. 28-4 (Water drainage plan)
- Sec. 28-5 (Water drainage criteria, methodologies and construction specs)

- Sec. 28-6 (Performance bonds or other security)
- Sec. 28-7 (Inspections)
- Sec. 28-8 (Maintenance)
- Sec. 28-9 (Water board)
- Sec. 28-10 (Variance request)
- Sec. 28-11 (Appeals request)
- Sec. 28-12 (Judicial review)

## Chapter 18

### Variances

A variance is a deviation from the Town's building code or water drainage ordinance that is allowed under certain circumstances. For example, you **may want to build an addition onto your house that would violate the** Town's setback rules, or your proposed construction violates the Town's water drainage ordinance. In such cases you would need a variance from the Town Code to proceed.

The Town Code is intended to be uniformly applied, but it recognizes that strict application in certain situations may create undue hardship. Variances give the Town some flexibility to address such unusual situations. Because of the serious consequences in granting a variance request, most such requests must be reviewed and decided by the Town Council. Certain of those that involve fences and walls, however, are handled as "administrative variances" and are reviewed and decided by the Mayor and Town Manager. Requests for variances from the Town's Water Drainage regulations are heard and decided by the Town's Water Board.

#### **What's in this Chapter?**

- What Are the Standards for Granting a Variance from the Town's Building Code?
- How Do I Apply for a Variance from the Town's Building Code?
- Is a Public Hearing Required for a Variance from the Town's Building Code?
- How Are Administrative Variances Handled?
- If I Obtain a Variance from the Town's Building Code How Soon Must I Apply for a Building Permit?
- Are the Procedures for Obtaining a Variance from the Town's Water Drainage Regulations the Same as those for Obtaining a Variance from the Building Code?
- Can I Appeal a Variance Decision?
- Relevant Provisions of the Town Code

## **What Are the Standards for Granting a Variance from the Town's Building Code? (Sec. 4-60(a))**

Obtaining a variance generally is difficult. Because Town regulations are meant to be consistently applied, variances are granted only under unusual and compelling circumstances. Specifically, the Town Council may grant a variance only when the property involved is so *exceptionally* narrow, shallow, oddly-shaped, or topographically unusual or is subject to such extraordinary conditions that compliance with the Town's building code is impossible, impractical, or causes undue hardship. If your property does not meet this "physical characteristics" test, the Town cannot grant a variance. Note that your personal circumstances (such as a physical disability) are not relevant to variance decisions.

If your property meets the "physical characteristics" test, the requested deviation from the building code may only be granted if the following conditions are met:

- The variance is reasonably necessary to grant relief from the property's conditions.
- The proposed variation is the minimum needed to overcome the extraordinary conditions of the property.
- Granting the variance will not have a detrimental impact on your neighbors' use and enjoyment of their properties.
- Granting the variance will not impair public health, safety and welfare, or the integrity of any approved general or master plan of the Town.

Please note that there are slightly different standards for granting a variance that involves the public right-of-way. See the Town Code for details or ask Town staff.

## **How Do I Apply for a Variance from the Town's Building Code? (Sec. 4-60(b))**

You must file a variance application. The forms are available at the Town Office and on the Town web site. You are required to submit documents that support the variance request. These items may include a boundary survey (required for all building variances), architectural drawings such as floor plans or building elevations, photographs, or other specifications about existing and proposed construction involved in the application. If you are not the property owner, you will be asked to provide a copy of

your lease or contract that establishes your right to obtain and exercise the variance. Finally, you will be asked to provide a summary of what you expect to prove in support of your application for the variance, including the names of witnesses and the exhibits that you will produce at the public hearing. Town staff is available to answer your questions about the process and documentation need.

***NOTE:** You may find it helpful to attend a variance hearing before you finalize your application.*

### **Is a Public Hearing Required for a Variance from the Town's Building Code? (Sec. 4-60(b))**

Except for administrative variances (discussed below), variance requests require a public hearing before the Town Council. At least 15 days prior to the hearing, the Town notifies your neighbors and the general public that the hearing is to take place. The public is free to attend the hearing and comment on the variance request or submit comments in writing prior to the hearing.

The applicant generally is notified of the Town Council's decision about the variance at the hearing; however, the variance is not officially approved or denied until a written decision is approved by the Council (usually several weeks after the hearing). If the variance is granted, it may include whatever conditions the Town Council believes are needed to protect the public interest.

### **How Are Administrative Variances Handled? (Sec. 4-60(c))**

Administrative variances can be granted for the following improvements:

- New or relocated front yard retaining walls thirty (30) inches or greater in height, provided they are set back at least two (2) feet from the nearest public sidewalk in the public right-of-way or, if there is no sidewalk, at least six (6) feet from the curb;:-
- New front yard fences measuring four (4) feet or less in height, having a fenestration of at least thirty (30) percent, not constructed of chain link, and on a corner lot abutting any street or on an interior lot abutting East-West Highway, Connecticut Avenue, or Bradley Lane;:-
- Walls in a public right-of-way that replace an existing wall provided the replacement fence or wall does not materially alter the location or increase the height or length of the fence or wall;

- Fences in a front yard that replace an existing fence, but are ineligible for replacement due to a decrease in fenestration, provided the replacement fence does not materially alter the location or increase the height or length of the fence and the replacement fence has a fenestration of at least thirty (30) percent;
- Fences in a public right-of-way, provided the replacement fence does not materially alter the location or increase the height or length of the fence and the replacement fence has a fenestration of at least thirty (30) percent.
- New or relocated retaining walls less than thirty (30) inches in height in a public right-of-way, provided they are set back at least two (2) feet from the nearest public sidewalk in the public right-of-way or, if there is no sidewalk, at least six (6) feet from the curb;
- New or relocated guardrails, provided the guardrail is set back at least two (2) inches from the retaining wall and located along only portions of the retaining wall measuring thirty (30) inches or more in height;
- New or relocated steps, stoops, outside stairways, and their roofing; decks, terraces, porches, and their roofing; chimneys, air conditioners, and heat pumps; and/or oriel entrances, vestibules, and balconies, in a front and/or rear yard;
- New or relocated bay windows in a front and/or rear yard, provided they are no more than one (1) story in height and ten (10) feet or less in width;
- Additional width of six (6) feet or less for a driveway, other than a shared driveway, in a front yard and/or in a public-right-of-way;
- Extension of an existing wall plane; or
- Replacement of a structure or portion thereof, provided the location is not changed and no dimension is enlarged.

Administrative variances differ from regular variances only in the manner in which they are processed. Rather than the Town Council deciding on the request following a public hearing, the Mayor and Town Manager decide whether to grant an administrative variance. A variance can only be approved administratively if no objection to the approval of the variance is filed with the Town during a 15 day public comment period. If an objection to the approval of the variance is filed, the variance is required to be considered at a public hearing following the traditional variance process listed above.

You must submit the same documents to apply for an administrative variance as for a regular variance.

## **If I Obtain a Variance from the Town's Building Code How Soon Must I Apply for a Building Permit? (Sec. 4-60(b))**

Once a variance is granted, you will have 12 months to apply for a building permit. If a building permit is not applied for within 12 months, the variance approval expires. The Town Manager can grant an extension, but you must demonstrate that during the past year you have acted diligently to move the project forward and that there has been no material change in the circumstances surrounding your original application. The Town Manager can impose whatever additional conditions he or she believes appropriate when granting an extension.

## **Are the Procedures for Obtaining a Variance from the Town's Water Drainage Regulations the Same as those for Obtaining a Variance from the Building Code? (Sec. 28-10)**

The procedures for obtaining a variance from the Town's water drainage regulations differ slightly from those outlined above. The primary difference is that the variance request is reviewed by the Town's Water Board, not the Town Council. You still must file a written variance application with the Town (including the same types of supporting documentation) and present your variance request at a public hearing. The Water Board can grant the variance only if it determines that: 1) engineering difficulties exist that create an undue hardship to the applicant; 2) under the proposed variance, the objectives of the water drainage regulations are achieved as nearly as possible; and 3) the variance will not be detrimental to any nearby property, to any public right-of-way, or to the overall purpose and intent of the Town's regulations in this area.

## **Can I Appeal a Variance Decision? (Secs. 4-61, 4-62, 28-11, & 28-12)**

A variance decision of the Town Council or of the Town's Water Board can be appealed to the Maryland courts, if filed within 30 days of the decision. A variance decision of the Town Manager and Mayor (administrative variances) can be appealed to the Town Council.

## **Relevant provisions of the Town Code**

### In Chapter 4 (Buildings):

- Sec. 4-60 (Variance from requirements of building restrictions)
- Sec. 4-61 (Appeals to the Town Council)

- Sec. 4-62 (Appeals to the Circuit Court)

In Chapter 28 (Water Drainage):

- Sec. 28-10 (Variance request)
- Sec. 28-11 (Appeals request)
- Sec. 28-12 (Judicial review)

## Chapter 19

### Calculations

A number of calculations are required before a Town building permit can be issued. Depending on the nature of your project, you may need to have several measures computed: 1) the size of your lot, 2) the percentage of the lot you intend to cover, 3) the established building line, 4) the front, rear and side setbacks, 5) the gross floor area of your existing/proposed house and accessory buildings, 6) the established building height, and 7) the non-vegetative surface area in your front yard. For permitting purposes any required measures will have to be prepared by a Maryland licensed architect, surveyor, or civil engineer. This level of accuracy usually is not needed in the initial planning stages of a project. You can compute estimates of the setbacks, lot coverage, and gross floor area to help you determine the feasibility of your proposed project. This chapter explains how the various measures are computed.

#### What's in this Chapter?

- Get Help
- Front Lot Building Line
- Established Building Line
- Computing Setbacks for a House
- Computing Setbacks for an Accessory Building
- Computing Lot Coverage
- Computing Gross Floor Area and FAR
- Building Height
- Wall Plane Height and Length
- Relevant Provisions of the Town Code

## **Get Help**

The Town staff is a great resource when questions arise about anything related to the Town building code, whether it's a question about how to measure things or about code requirements. Call and ask for assistance. The Town's web site also provides a number of different work sheets and calculation tools that you can use.

## **Front Lot Line**

For some calculations, you need to know where your front lot line is. If you have a boundary survey of your lot, the front lot line will be shown on it. It may also be shown on your plat. The location of your front lot line may be a surprise to you because often a portion of what appears to be your front yard is actually part of the public right-of-way (generally a portion of the land between the street and your house is part of the public right-of-way). If the distance from your house to your front lot line is shown on your plat (it will be shown on a boundary survey), you can find its approximate location in your front yard simply by measuring out from your house the specified distance.

## **Established Building Line**

The established building line is a front yard building restriction line. This means that a house must be built behind it. The established building line is located 25 feet or more from the front lot line. The established building line is the average setback of all houses that are: 1) on the same side of the street as your lot, 2) in the same block as your lot, and 3) are within 300 feet of each of your side lot lines. If all of the houses within the proscribed 300 feet are equidistant from their front lot line, all of them are by definition built on the established building line. But if some of the nearby houses are set back further than others, then those set forward are by definition in front of the established building line, those set further back are behind it. You may need to know the location of the established building line to determine your front setback. (see Computing Setbacks for a House and Computing Setbacks for Accessory Buildings below).

## **Computing Setbacks for a House**

Projects involving construction of a new house or the expansion of an existing house typically require that you establish the setbacks for your lot; that is, the required distance from your house to your front, rear, and side lot lines. To obtain the front, rear, and side setbacks you will need to know the following:

- The location of your front lot line
- The location of the established building line
- The width of your lot
- The length of both of your side lot lines

If your lot is rectangular in shape or if the side lot lines are parallel but unequal in length, you can compute your rear and side setbacks using the formulas provided in this chapter. If your lot is oddly shaped, calculating the setbacks can be tricky, so feel free to ask the Town staff for assistance.

- Front setback. (Sec. 4.4(a))

Determining the front setback requires knowing where your front lot line and the *established building line* are located. (It is likely that your front lot line is not where you think it is.) The front setback is either 25 feet from the front lot line or the distance between the front lot line and the established building line, whichever is greater. An exception is provided for additions to existing houses, which can be constructed up to the front building line of the existing house (as long as the 25 foot minimum setback is met. For additions, owners are also given the option of meeting the established building line setback, which can result in a smaller rear yard setback.

If you have a boundary survey of your lot, the front lot line will be shown on it. They may also be shown on your plat. The location of your front lot line may be a surprise to you because often a portion of what appears to be your front yard is actually part of the public right-of-way.

Corner lots - If you have a corner lot, then you have 2 front yards and 2 front lot lines. Generally, your house cannot be any nearer to a front lot line than the established building line or 25 feet, whichever results in a greater setback. If, however, if there is not interior lot between an adjoining corner lot on one of the streets and the subject property, the minimum setback from that front lot line is 15 feet (rather than 25 feet).

- Side setbacks. (Sec. 4.4(b) & (d))

The Town Code establishes both the minimum setback for a single side of a lot and the minimum setback for both sides combined. The wider the lot is, the wider the minimum single-side and combined-side setbacks are. For many lots, the combined side setback is greater than twice the minimum single-side setback. In such cases, you may choose to use unequal single-side setbacks. For example, if your combined side setback is 18 feet, your minimum single-side setback is 8 feet, and you could choose to use single-side setbacks of 8 feet and 10 feet for your project.

For new houses and for additions where the established building line is being used to calculate the front setback, you need to know the lot width at the established building line. For other additions, you will need to know the lot width 25 feet from the front property line. Obviously, if *the* side lot lines are parallel, the lot width is the same no matter where it is measured. First you must calculate the minimum combined-side setback for your lot; then the minimum single-side setback. The computations are described below. Please note that the descriptions below involve the general rules for side setbacks. Exceptions apply. See the Town Code for details or ask Town staff.

- Computing the combined-side setback:

- Lots 53 feet or less in width: The minimum combined-side setback (side 1 + side 2) is 16 feet.
- Lots wider than 53 feet: The minimum combined-side setback (side 1 + side 2) is 30 percent of the lot width.

**Example:** Suppose your lot is 60 feet in width. The combined-side setback is:  $.3 \times 60 = 18$  feet.

- Computing the single-side setbacks:

- Lots with combined-side setback of less than 20 feet (lots less than 67.1 feet in width): The minimum single-side setback is 8 feet. Thus, BOTH of the single-side setbacks must be at least 8 feet. If one side setback is 8 feet, the other must be at least 10 feet.
- Lots with combined-side setback greater than 20 feet: The minimum single-side setback is 40 percent of the combined-side setback.

**Example:** Suppose the minimum combined-side setback is 30 feet. The minimum single-side setback is 12 feet ( $30 \times .4$ ).

Thus, neither of the single-side setbacks can be less than 12 feet. Because the combined-side setback is 30 feet, if you use a single-side setback of 12 feet on one side, the setback for the other side must be at least 18 feet (30 feet minus 12 feet).

Corner lots - If you have a corner lot, then you have one side setback line. If your lot is 70 feet or less in width, the Town's side setback defaults to whatever setback is required by Montgomery County. This setback is typically 7 or 8 feet, so you should call the County Department of Permitting Services to get a determination of the setback for your property. If your lot is greater than 70 feet wide, the side setback is 8 feet.

- Rear setback. (Sec. 4.4(c))

The minimum rear setback depends on the depth of the lot and the size of the front setback.

- Computing the depth of your lot:

The depth of your lot is computed by averaging the length of the side lot lines. To do this, just add the lengths of the two sides together and divide by 2  $\{(length\ of\ side\ 1 + length\ of\ side\ 2)/2\}$ .

- Computing the rear setback:

- Lots 100 feet in depth or less: The minimum rear setback is 20 feet.
- Lots more than 100 feet but less than 123 feet in depth: The minimum rear setback is 20 feet plus 70 percent of the lot depth in excess of 100 feet, minus one foot for every foot by which the front setback exceeds 30 feet. This computed amount is the minimum rear setback, provided it is at least 20 feet.

|  |                 |
|--|-----------------|
| <b>Example:</b> Suppose your lot is 110 feet in depth and the front setback is 35 feet. The rear setback is computed as follows: |                 |
| Begin with the minimum rear setback  | 20 feet         |
| Add 70% of the lot depth in excess of 100 feet:<br>(110-100) * .7=7 feet   | + 7 feet        |
| Subtract the number of feet by which the front setback exceeds 30 feet*  | - 5 feet        |
| <b>Minimum rear setback:</b>   | <b>=22 feet</b> |

- Lots that exceed 123 feet in depth: The minimum rear setback is 30 percent of the depth of the lot, minus one foot for every foot by which the front setback exceeds 30 feet. The result is the minimum rear setback, provided it is at least 20 feet.

|  |           |
|--|-----------|
| <b>Example:</b> Suppose your lot is 130 feet in depth and its front setback is 35 feet. The rear setback is computed as follows: |           |
| Calculate 30 percent of the lot depth:<br>130 * .3 = 39 feet   | 39 feet   |
| Subtract the number of feet by which the front setback exceeds 30 feet: (35-30=5 feet)*  | - 5 feet  |
| <b>Minimum rear setback:</b>   | = 34 feet |

\* For an addition to an existing main building that is located in front of the established building line, the rear setback is reduced one foot for each foot the front building line of the house exceeds 30 feet. For an addition to an existing main building that is located behind the established building line, the rear setback is reduced one foot for each foot that *either* the established building line exceeds 30 feet, or the front building line exceeds 30 feet (as long as no part of the addition projects beyond the front building line).

Corner lots. For corner lots that are 120 feet or less in depth, the minimum rear setback is 20 feet. For corner lots more than 120 feet in depth, the minimum rear setback also is 20 feet but you must add 70 percent of the depth in excess of 120 feet. This amount is reduced by one foot for every foot by which the front setback line exceeds 30 feet. The result is the rear setback, although it can never be less than 20 feet.

### **Computing Setbacks for an Accessory Building (Sec. 4-5 (a,b,c,d,e))**

Projects involving construction of a new accessory building or the expansion of an existing accessory building typically require that you establish the setbacks for your lot; that is, the required distance from the accessory building to your front, rear, and side lot lines. If your lot is oddly shaped, calculating the setbacks can be tricky, so feel free to ask the Town staff for assistance. The setbacks for corner lots differ somewhat from those for interior lots. To obtain the rear and side setbacks you will need to know the following:

- The height of the accessory building

- The length of the side and rear walls of the accessory building
- Front setback

Accessory buildings must be set back at least 60 feet from the front lot line.

- Side and rear setbacks

Side and rear setbacks of accessory buildings depend on the height of the accessory building and the length of its side and rear walls.

- Accessory buildings less than 12 feet in height (measured to the highest point): These accessory buildings must be set back at least 5 feet from the *rear* and side lot lines. If an exterior wall of the building exceeds 24 feet in length, the setback along that side is increased by 1 ½ feet per foot of excess length.

|   |          |            |
|---|----------|------------|
| <b>Example:</b> Suppose your proposed garage is less than 12 feet in height and is 25 ½ feet in length. The rear and side setbacks are computed as follows: |          |            |
|   | Rear     | Side       |
| Begin with <u>minimum setbacks</u>  | 5 feet   | 5 feet     |
| Multiply number of feet by which side wall length exceeds 24 feet by 1.5: $(25.5-24) \times 1.5 = 2.25$ feet  |          | +2.25 feet |
| <b>Minimum rear and side setbacks:</b>  | = 5 feet | =7.25 feet |

\*Additional side setback is required because garage length exceeds 24 feet.

- Accessory buildings 12 feet or taller (measured to the highest point): The rear and side setbacks must be at least 7 ½ feet. For flat roof buildings, the 7 ½ foot minimum is increased by an additional 1 ½ feet for each foot in height in excess of 12 feet. For other roof types, the rear and side setback are similarly increased if the height is 15 feet or greater. In addition, if an exterior wall of the building exceeds 24 feet in length, the setback along that side is increased by 1 ½ feet per foot of excess length.

|  |          |          |
|--|----------|----------|
| <b>Example:</b> Suppose your proposed garage will have a flat roof, be 14 feet in height, and 26 feet in length. The rear and side setbacks are computed as follows: |          |          |
|  | Rear     | Side     |
| Begin with <u>minimum rear and side setbacks:</u>  | 7.5 feet | 7.5 feet |
| <u>Compute additional rear and side setbacks due to excess height:</u>   |          |          |

|  |            |             |
|--|------------|-------------|
| Multiply number of feet by which the height exceeds 12 feet by 1.5: $(14-12 \text{ feet}) \times 1.5=3 \text{ feet}$   | + 3 feet   | + 3 feet    |
| <b>Compute additional side setback due to excess wall length:</b>  |            |             |
| Multiply number of feet by which wall length exceeds 24 feet by 1.5: $(26-24 \text{ feet}) \times 1.5= 3 \text{ feet}$ |            | + 3 feet    |
| <b>Minimum rear and side setbacks:</b>   | =10.5 feet | = 13.5 feet |

Corner lots - The general rules for an accessory building on corner lots is that they can be no closer to the *front lot line* than the house itself. The setback from the *rear lot line* must be at least 10 feet. The side setbacks depend on whether the adjoining lot fronts a side street. If it does, the setback from that side street must be at least 25 feet. Otherwise, it must at least 15 feet. These rear and side setback dimensions are increased, as described above, for structures that exceed 24 feet in linear dimension and/or with roofs that exceed 12 feet.

## Computing Lot Coverage

Montgomery County limits the amount of a lot that can be covered by buildings (this includes both the house and any accessory buildings). The percent of the lot that can be covered by buildings is referred to as lot coverage. For infill development construction on most lots in the Town is considered to be infill development), the limitations vary depending on the size of a lot.

For lot coverage calculations, the County includes the area covered by the house and all accessory buildings, but does not include bay windows, chimneys, uncovered porches, and up to 240 sq. ft of one accessory building if it has a footprint of less than 350 square feet and is less than 20 feet high.

Note, please see the Montgomery County Code, Section 59-C-1.32 for details and/or inquire at the Department of Permitting Services. To obtain your County building permit you will need to have a professional compute the lot coverage.

- Computation of maximum allowable lot coverage percentage for a lot for infill development

To compute the maximum allowable lot coverage percentage for your lot for infill development, you will need to know the square footage of your lot. For permitting purposes this measure must be obtained from a boundary survey, but for initial calculations, the lot size shown on your property tax assessment should suffice. Once you know the

square footage of your lot, use the formulas below to compute your maximum allowable lot coverage.

- Lots less than 6,000 square feet: The maximum allowable lot coverage is 30 percent.
- Lots 6,000 to 16,000 square feet: For lots in this category, the maximum allowable lot coverage is 30% minus .001 multiplied times lot area in excess of 6,000 square feet.

|   |                 |
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| <b>Example:</b> Suppose your lot size is 9,458 square feet. The maximum allowable lot coverage percentage is calculated as follows: |                 |
| Begin with the maximum lot coverage percentage  | 30%             |
| Multiply the number of square feet by which lot size exceeds 6,000 sq. ft. by .001: $(9,458-6,000) \times .001=3.458$               |                 |
| Decrease allowed lot coverage percentage by this amount:  | -3.45 %         |
| <b>Maximum allowable lot coverage:</b>  | <b>=26.55 %</b> |

- Lots larger than 16,000 square feet: The maximum lot coverage is 20 percent.
- Computing maximum footprint of a new house (given the maximum allowable lot coverage percentage)

If your project involves construction of a new house, you can calculate the maximum footprint of the house (and any accessory buildings) by multiplying the maximum allowable lot coverage percentage computed above times the area of the lot.

|   |                        |
|---|------------------------|
| <b>Example:</b> Suppose you propose to build a new house on a lot with 9,458 square feet. The maximum allowable footprint of your new house (and all accessory buildings) is computed as follows: |                        |
| Lot size:   | 9,458 sq. ft.          |
| Multiply this amount by the maximum allowable lot coverage percentage (computed above)  | x 26.55 %              |
| <b>Maximum footprint of new house:</b>  | <b>= 2,506 sq. ft.</b> |

- Computing the maximum footprint of an addition (given the maximum allowable lot coverage percentage)

If your project involves construction of an addition or accessory building, you can calculate the maximum footprint of the addition or accessory building as follows:

- 1) Compute the maximum footprint by multiplying the lot coverage percentage (as computed above) times the area of the lot,

- 2) Compute the amount of your lot that is already covered by your existing house and any accessory buildings
- 3) Compute the difference between the maximum allowable building footprint for your lot and the combined footprints of your existing buildings to determine the size of any addition or accessory buildings that can be built on the lot.

For permitting purposes these calculations must be prepared by a Maryland certified surveyor, architect, or civil engineer, but you can estimate them for your initial planning using dimensions as shown on your plat.

|   |                       |
|---|-----------------------|
| <b>Example:</b> Suppose you propose to build an addition onto your house. Your lot has 9,458 square feet, your existing house has a footprint of 1,825 square feet and your garage has a footprint of 290 square feet. The maximum footprint of your addition is computed as follows: |                       |
| Lot size:   | 9,458 sq. ft.         |
| Multiply this amount by the maximum allowable lot coverage percentage (as computed above)   | x 26.55 percent       |
| The result is the maximum allowable footprint for all buildings on the lot:   | = 2,506 sq. ft.       |
| Subtract footprint of existing house:   | -1,825 sq. ft.        |
| Subtract footprint of garage in excess of 240 sq. ft.   | -50 sq. ft.           |
| <b>Maximum footprint of addition:</b>   | <b>= 6,76 sq. ft.</b> |

- Computing maximum allowable lot coverage in the rear yard (Sec. 4-5@ & (b))

The Town does not regulate overall lot coverage but does limit the amount of a rear yard that can be covered by accessory buildings to 25 percent.

For the Town's accessory building rear yard coverage requirement on interior lots, the rear yard is that part of the lot that is bounded by the rear property line, the side property lines, and the rear building line of the house. For corner lots, the rear yard is that part of the lot that is bounded by both front building lines and is behind at least one of the rear building lines. To compute the maximum footprint of accessory buildings, you compute the area of the rear yard and multiply by .25.

## Computing Gross Floor Area and FAR

The Town regulates the amount of *gross floor area* that may be built on a lot by setting limits on the maximum *Floor Area Ratio* (FAR) for a lot. Please note that you will need the calculations certified by a surveyor,

civil engineer, or architect licensed in Maryland before a Town building permit can be issued. For initial planning purposes, however, the Town offers a free Gross Floor Area calculation. Ask the Town staff about it

- Gross floor area includes all the enclosed square footage on a lot. It is the sum of the enclosed horizontal surface areas (square footage on each floor) in your house and in all accessory buildings on your lot. The horizontal surface area of basements, cellars, unenclosed porches, and some attic space, and the first 240 square feet of one accessory building are not included in the gross floor area. Horizontal surface areas with ceiling heights greater than 14 feet count twice. See the Town Code for details.

FAR is the ratio of the *gross floor area* of the buildings on a lot to the total area of the lot and is expressed as a number between 0 and 1. To put it another way, FAR measures the volume of a house relative to the area of the lot. For example, if the gross floor area of a house is 3,000 square feet and the area of the lot is 6,000 square feet, then the FAR is  $3,000/6,000=.50$ .

- Computation of maximum allowable gross floor area for a lot (Sec. 4.3(c)):

The maximum allowable gross floor area on a lot and the FAR requirements are as follows

- Lots smaller than 6,000 square feet: The maximum allowable gross floor area is 3,000 square feet.
- Lots with 6,000 to 12,000 square feet: The maximum FAR is .50. This means the maximum gross floor area ranges from 3,000 square feet on a 6,000 square foot lot ( $3,000 \text{ sq. ft. House}/6,000 \text{ sq. ft. lot} = \text{FAR of } .50$ ) to 6,000 square feet on a 12,000 square foot lot ( $6,000 \text{ sq. ft. House}/12,000 \text{ sq. ft. lot} = \text{FAR of } .50$ ).
- Lots larger than 12,000 square feet: The maximum FAR is .50 for the first 12,000 square feet and .25 for amounts in excess of 12,000 square feet.

|  |                                  |                                      |
|--|----------------------------------|--------------------------------------|
| <b>Example:</b> Suppose a lot has 15,000 square feet. Compute the maximum allowable gross floor area as follows: |                                  |                                      |
|  | First 12,000 sq. ft. of lot area | Lot area in excess of 12,000 sq. ft. |
| Begin with square footage of lot:  | 12,000 sq. ft.                   | 3,000 sq. ft.                        |

|   |                 |               |
|---|-----------------|---------------|
| Multiply by applicable FAR                                      | x 0.5           | x 0.25        |
| Maximum allowable gross floor area:                             | = 6,000 sq. ft. | = 750 sq. ft. |
| <b>Total maximum allowable gross floor area for entire lot:</b> | = 6,750sq. ft.  |               |

- Computing the maximum gross floor area of a new house

The maximum gross floor area of a new house is simply the maximum gross floor area for the lot minus the gross floor area of any accessory buildings in excess of 240 square feet.

Example: If your lot has 9,000 square feet, then the maximum gross floor area of a house and accessory buildings can be as high as 4,500 square feet (.5 x 9,000 = 4,500 sq. ft.) If you propose to build one accessory building with a gross floor area of 300 sq. ft, then the maximum gross floor area for your new house is 4,500 sq. ft. minus 60 sq. ft = 4,440 sq. ft.

- Computing the maximum gross floor area of an addition

First, compute the FAR for your lot as described above. Multiply the FAR times the total area of your lot to determine the maximum gross floor area for all buildings on your lot.

Next obtain the gross floor area of the existing buildings on your lot. To do this, sum the floor area of all of the enclosed horizontal surface areas in your house and in all accessory buildings on your lot. This total should include stairwells, the floor space used for mechanical equipment, and screened or otherwise enclosed porches. If you have any enclosed areas with clear ceiling heights (measured from floor to ceiling) greater than 14 feet, those areas need to be counted twice in your calculation. *Do not include* any basements, cellars, unenclosed porches or the first 240 square feet of one accessory building. You may also need to include attic space(some existing attic space may be excluded, see the definition “gross floor area” in Section 4-1 of the Town Code for details about attic space).

To compute the maximum gross floor area of an addition, subtract the gross floor area of your existing buildings from the maximum allowable gross floor area of your lot.

|  |                     |
|--|---------------------|
| <b>Example:</b> Suppose a lot has 9,000 square feet. Compute the maximum allowable gross floor area of an addition as follows: |                     |
|  | Maximum gross floor |

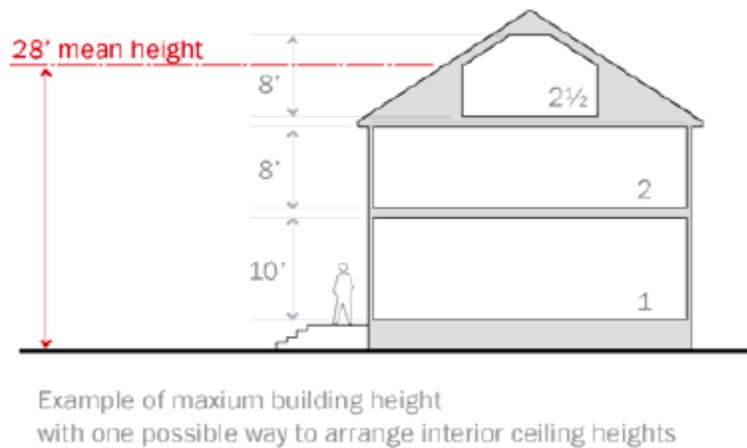
|  |                       |
|--|-----------------------|
|  | area                  |
| Compute gross floor area for entire lot (9,000 x .5 = 4,500 sq. ft.) | 4,500 sq. ft.         |
| Subtract gross floor area of existing house and accessory buildings  | - 2,000 sq. ft.       |
| <b>Maximum allowable gross floor area of addition</b>                | <b>= 2,550sq. ft.</b> |

## Building Height

- House height (Sec. 4-3(b))

There are two ways to measure the height of your house (Figures 1 and 2). Regardless of which of the two methods you use, the height is always measured from the average elevation of the finished grade along the front of your house. The first method measures the height from the average finished grade to the highest point of the roof surface, in which case it cannot exceed 33 feet. The second method can be used if you have a gable, hip, mansard, or gambrel roof. The alternative method measures the vertical distance from the finished grade in front of your house to the mean height level between the eaves and ridge. When this measurement method is used, the height of your house cannot exceed 28 feet. You choose the method used to measure the height of your house. Only one of the two height limits must be met.

Figure 1



- Accessory building height (Sec. 4.5(f))

As for houses, there are two ways to measure the height of an accessory building. Regardless of which method is used, the height of accessory buildings is measured from the average pre-development grade in front of the structure. For method one, the distance from the predevelopment grade to the highest point of the roof cannot exceed 15 feet. The second measurement method can be used if the structure has a gable, hip, mansard, or gambrel roof. The alternative method measures the vertical distance from the finished grade in front of the structure to the mean height level between the eaves and ridge. This height cannot exceed 12 feet.

## Wall Plane Heights and Lengths

- Wall Plane Height (Sec. 4.3 (b))

The maximum allowable height of an exterior wall (referred to as the *wall plane height*) is 36 feet. (Figure 2). If you have a sloping lot, this restriction may affect the height of a multi-story project.)

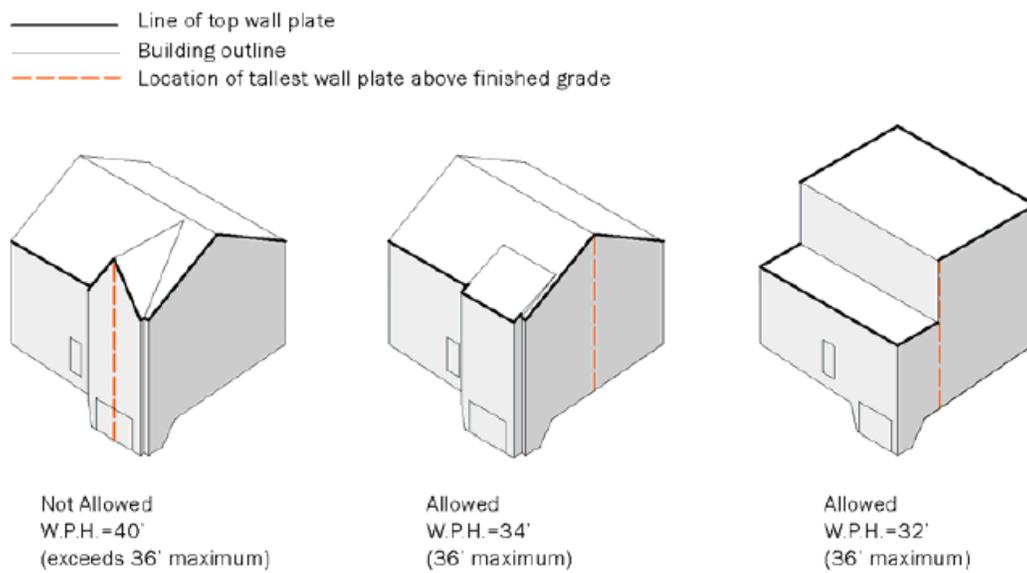
## Front-Loading Garages

- Front Loading Garage Setback (Sec. 4.3 (c))

A front-loading garage shall be set back by a minimum of three (3) feet from all adjoining front wall planes of the main building. If an adjoining wall plane is not at least three (3) feet in width, the set back shall be measured from the depth of the nearest wall plane measuring at least three (3) feet in width. For purposes of this section, the wall planes to

be considered include the wall planes to each side of the front-loading garage, between the grade elevation on the exterior wall and the roofline.

Figure 2

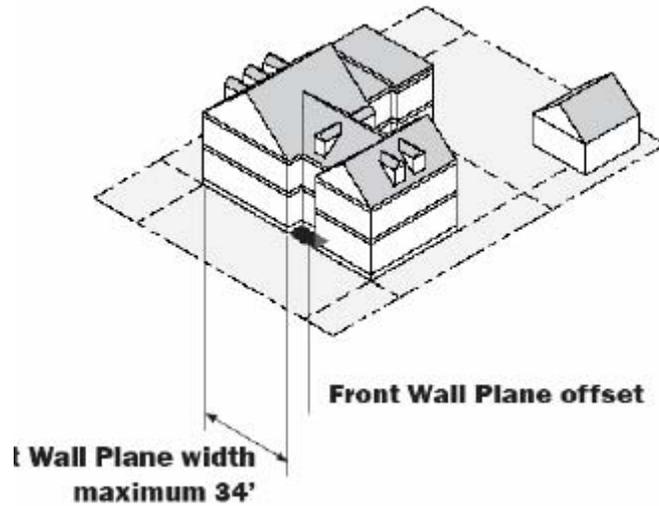


Drawing developed by Jakubiak & Assocs.

- Wall Plane Length (Sec. 4.3 (d))

The maximum horizontal length of an exterior wall (referred to as the *wall plane length*) is 34 feet, unless there is an “articulation” such as an architectural offset, a porch, or a chimney. (Figure 3) To qualify for the exception, these offsets must measure at least 2 feet deep and 5 feet in width and extend the full height of the wall.

Figure 3



### Relevant provisions of the Town Code

#### In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4-3(c) (Maximum floor area)
- Sec. 4-4(a)(Front setback)
- Sec. 4-(b)(Side setback)
- Sec. 4-4(c)(Rear setback)
- Sec. 4-4(d)(Corner lots)
- Sec. 4-5(Accessory building)

Montgomery County Code, Section 59-C-1.32

## **Glossary**

(Secs. 4-1 & 28-2)

Access Ramp: A ramp necessary to facilitate reasonable access to a building by a disabled person.

Accessory building: A building that is located on the same lot as a house but is not attached to it by any common wall or roof. To qualify as an accessory building, the structure must be incidental and subordinate to the use of the house itself. Examples include garden sheds, greenhouses, and detached garages.

Apron: The portion of a driveway that widens near the driveway's intersection with a public roadway to support the turning movements of a vehicle.

Attic: The area under the roof, if it has headroom of at least 6 feet 6 inches, regardless of whether a floor exists.

Basement or Cellar: That portion of a house that is below the first floor joists. If at least ½ of its clear ceiling height is above the average ground level along the perimeter of the house, it is considered a basement; if more than half of its clear ceiling height is below the average ground level, it is a cellar.

Berm: A mound or bank of earth or gravel measuring one (1) foot or more in height.

Building height: The vertical distance measured from the average elevation of the finished grades along the front of a house to the highest point of roof surface regardless of roof type. If your house has a gable, hip, mansard, or gambrel roof, building height can be measured from the average grade to the mean height level between the eaves and ridge.

Building line: A line extending from lot line to lot line at the outermost wall of a building.

Canopy tree. Any regulated tree on the Town's approved canopy tree list.

Curb Entrance: A depression in the curb that accommodates vehicular ingress to and egress from a lot, or where there is no curb, the intersection of the driveway apron and edge of the improved roadway.

Development activity: For purposes of the Town's water drainage ordinance, any activity that can reasonably be expected to alter the flow

of water, including contour altering activities, clearing, grading, excavating, as well as constructing and demolishing structures.

Driveway Apron: The improved surface between the paved roadway surface and the portion of the driveway that is within the public right-of-way, generally from the curb to the roadway-side edge of the public sidewalk, but including only that surface that extends no more than four (4) feet from the curb, or four (4) feet from the paved roadway surface if there is no curb.

Established building height: Generally the average height of all houses within 300 feet of each side lot line of the house of interest, which are along the same side of the street as that house and are between intersecting streets. For corner lots, the property owner may decide which adjoining street to use as reference for calculating established building height. The established building height functions as a building height restriction line.

Established building line: Generally the average front setback of all houses that are 1) set back at least 25 feet from the front lot line, 2) within 300 feet of each side lot line of the house in question, and 3) on the same side of the street as the house in question and between intersecting streets.

Fence: A construction measuring one (1) foot or more in height, made of posts or stakes joined together by boards, wire, rails, or other material to enclose or divide an area.

Floor area ratio (FAR): The gross floor area of all buildings or structures on a lot, divided by the total lot area.

Front-loading garage: An attached garage with its door facing the front building line. For corner lots, an attached garage with its door facing a public street is deemed to be front-loading.

Front lot line: The front boundary line of a lot separating the lot from the public right-of-way. Corner lots have two front yards.

Front yard: Generally the area that lies between the front walls of your house and its front lot line. A yard that abuts an alley is not considered a front yard. Corner lots are considered to have two front yards, each facing a different roadway.

Grading: Any activity by which soil is cleared, stockpiled, excavated, scarified, or filled.

Gross floor area: The sum of all enclosed floor areas in your house and in all the accessory buildings on your lot. It includes stairwells, the floor space used for mechanical equipment, screened or otherwise enclosed porches, and new attic space (some existing attic space is excluded). Enclosed areas with clear ceiling heights (measured from floor to ceiling) greater than 14 feet are counted twice in gross floor area calculations. The term does not include basements, cellars, unenclosed porches or the first 240 square feet of one accessory building.

Guardrail: A protective railing located along a retaining wall, measuring no more than thirty-eight (38) inches in height, excluding post caps and fennels, having a fenestration of at least seventy (70) percent, and having no gate. A railing not meeting the foregoing criteria, or the criteria for a handrail, shall be deemed a fence, provided, however, a railing on a porch, deck, or stoop, shall be deemed part of the porch, deck, or stoop and not separately regulated.

Handrail: A railing grasped by the hand for support, located along a walkway, steps, outside stairway, access ramp, or wheelchair lift, measuring no more than thirty-eight (38) inches in height, excluding post caps and fennels. A railing not meeting the foregoing criteria, or the criteria for a guardrail, shall be deemed a fence, provided, however, a railing along a porch, deck, or stoop, shall be deemed part of the porch, deck, or stoop and not separately regulated.

Hedge: A row of closely-planted shrubs, bushes, trees, or other plant material that has leaves at or below six (6) feet from the adjacent ground.

Impervious surface: A surface that impedes the movement of water into the soil, including such things as buildings, driveways, concrete or asphalt sidewalks, stoops, stairways, and patios.

Lot: 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.

Lot coverage: The amount of a lot that is covered by buildings, including accessory buildings and any weatherproofed floor area above a porch. Bay windows, chimneys, porches, or up to 240 square feet of certain detached garages, are not included in lot coverage. The term is relevant to regulations promulgated by Montgomery County, not the Town of Chevy Chase.

Rear yard: Generally the area defined by the rear lot line, the rear building line (excluding any unenclosed porch), and the side lot lines.

Regulated tree. Any tree with a trunk measuring 24 inches in circumference or larger measured at 4½ feet above the ground. If a tree divides into branches at less than 4½ feet, the trunk is measured immediately below the dividing point.

Retaining Wall: A structure containing any nonvegetative materials to stabilize or retain soil.

Ten-year storm event: A storm event that results in at least 5.1 inches of rain over a 24-hour period.

Three-month storm event: A storm event that results in at least 1.25 inches of rain over a 24-hour period.

Wall plane: A continuous wall surface.

Wall plane height: Generally the maximum vertical distance, at any point on the facade of a building, between the ground and the highest outermost edge of the roof above an exterior wall.

Wall plane length: The horizontal length along the face of any exterior wall of a building, including any offsets. If an offset measures more than 2 feet in depth and 5 feet in width and extends the full height of the wall, then this offset is not included as part of a measurement of a wall plane length.

Wheelchair Lift: A lift necessary to facilitate reasonable access to a building by a disabled person.