

35/13-07D 2 E NEWLANDS ST
Chevy Chase Village Historic District



HISTORIC PRESERVATION COMMISSION


Isiah Leggett
County Executive

Julia O'Malley
Chairperson

Date: March 5, 2007

MEMORANDUM

TO: Reggie Jetter, Acting Director
Department of Permitting Services

FROM: Anne Fothergill, Senior Planner 
Historic Preservation Section
Maryland-National Capital Park & Planning Commission

SUBJECT: Historic Area Work Permit #444724, tree removal

The Montgomery County Historic Preservation Commission (HPC) has reviewed the attached application for a Historic Area Work Permit (HAWP). This application was **Approved** at the February 28, 2007 meeting.

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERENCE TO THE ABOVE APPROVED HAWP CONDITIONS AND MAY REQUIRE APPROVAL BY DPS OR ANOTHER LOCAL OFFICE BEFORE WORK CAN BEGIN.

Applicant: James Breed & Alice Breed

Address: 2 E Newlands St, Chevy Chase

This HAWP approval is subject to the general condition that the applicant will obtain all other applicable Montgomery County or local government agency permits. After the issuance of these permits, the applicant must contact this Historic Preservation Office if any changes to the approved plan are made.





HISTORIC PRESERVATION COMMISSION
301/563-3400

APPLICATION FOR HISTORIC AREA WORK PERMIT

DPS-48

RECEIVED
DIV. OF CASE WORK MGR

Contact Person: ALICE BREED
Daytime Phone No.: 301-654-4802

Tax Account No.: District 7 00458158
Name of Property Owner: JAMES + ALICE BREED Daytime Phone No.: 301-654-4802
Address: 2 East Newlands St 20815
Street Number City State Zip Code

Contractor: NOVIAN WOODS TREE SERVICE, LTD Phone No.: 703-528-2056
Contractor Registration No.: DKR 396
Agent for Owner: Robert Blackly Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 2 Street: East Newlands St
Town/City: Chesley Chase Nearest Cross Street: Corn Ave
Lot: 7 Block: 47 Subdivision: Section II Chesley Chase
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:
 Construct Extend Alter/Renovate A/C Slab Room Addition Porch Deck Shed
 Move Install Wreck/Raze Solar Fireplace Woodburning Stove Single Family
 Revision Repair Revocable Fence/Wall (complete Section 4) Other: tree removal

1B. Construction cost estimate: \$ PIA

1C. If this is a revision of a previously approved active permit, see Permit # HA

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: NA
2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches
3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:
 On party line/property line Entirely on land of owner On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Alice Breed Jan 25, 2007
Signature of owner or authorized agent Date

Approved: _____ For Chairperson, Historic Preservation Commission
Disapproved: _____ Signature: Julia O'Malley Date: 3-5-07
Application/Permit No.: 444724 Date Filed: 2/6/07 Date Issued: _____

FEB - 5 2007

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. **WRITTEN DESCRIPTION OF PROJECT**

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

Removal of 2 existing trees in "front" yard from
the front yard. They will be replaced elsewhere on
the property by 2 companion trees. Please see the
letters accompanying this request.

b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

Please see the accompanying letters

2. **SITE PLAN**

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- the scale, north arrow, and date;
- dimensions of all existing and proposed structures; and
- site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **PLANS AND ELEVATIONS**

N/A

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- Schematic construction plans**, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- Elevations (facades)**, with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **MATERIALS SPECIFICATIONS**

N/A

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **PHOTOGRAPHS**

- Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **TREE SURVEY**

If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

For **ALL** projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question. You can obtain this information from the Department of Assessments and Taxation, 51 Monroe Street, Rockville, (301/279-1355).

HISTORIC PRESERVATION COMMISSION STAFF REPORT

| | | | |
|---------------------|--|-----------------------|-----------------|
| Address: | 2 Newlands Street, Chevy Chase | Meeting Date: | 02/28/07 |
| Resource: | Contributing Resource Chevy Chase Village Historic District | Report Date: | 02/21/07 |
| Applicant: | Janes and Alice Breed | Public Notice: | 02/14/07 |
| Review: | HAWP | Tax Credit: | None |
| Case Number: | 35/15-07D | Staff: | Anne Fothergill |

PROPOSAL: Tree removal and replacement.

RECOMMENDATION: Approve

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Chevy Chase Village Historic District
STYLE: Colonial Revival
DATE: c. 1910

PROPOSAL

The applicants propose to remove two cherry trees (13" and 15" dbh) and replace them with two canopy trees. The applicant is working with the Village arborist on the tree replacement plan and according to the Village's approval, they are required to "reforest with at least 2 deciduous hardwood trees, which must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet." The Village has approved the tree removal as complying with the Village Urban Forest Ordinance.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Chevy Chase Village Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the historic preservation review guidelines in the approved and adopted amendment for the *Chevy Chase Village Historic District (Guidelines)*, *Montgomery County Code Chapter 24A (Chapter 24A)*, and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Chevy Chase Village Historic District

The *Guidelines* break down specific projects into three levels of review - Lenient, Moderate and Strict Scrutiny.

"**Lenient Scrutiny**" means that the emphasis of the review should be on issues of general massing and scale, and compatibility with the surrounding streetscape, and should allow for a very liberal interpretation of preservation rules. Most changes should be permitted unless there are major problems with massing, scale or compatibility.

"**Moderate Scrutiny**" involves a higher standard of review than "lenient scrutiny." Besides issues of massing, scale and compatibility, preserving the integrity of the resource is taken into account. Alterations should be designed so that the altered structure still contributes to the district. Use of compatible new materials, rather than the original

building materials, should be permitted. Planned changes should be compatible with the structure's existing design, but should not be required to replicate its architectural style.

“**Strict Scrutiny**” means that the planned changes should be reviewed to insure that the integrity of the significant exterior architectural or landscaping features and details is not compromised. However, strict scrutiny should not be “strict in theory but fatal in fact” i.e. it does not mean that there can be no changes but simply that the proposed changes should be reviewed with extra care.

Specifically, the *Guidelines* state:

- o Tree removal should be subject to strict scrutiny and consistent with the Chevy Chase Village Urban Forest Ordinance.

Montgomery County Code; Chapter 24A

A HAWP permit should be issued if the Commission finds that:

1. The proposal will not substantially alter the exterior features of a historic site or historic resource within a historic district.
2. The proposal is compatible in character and nature with the historical archaeological, architectural or cultural features of the historic site or the historic district in which a historic resource is located and would not be detrimental thereto of to the achievement of the purposes of this chapter.

In the case of an application for work on a historic resource located within a historic district, the Commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value surrounding historic resources or would impair the character of the historic district.

Secretary of the Interior's Standards for Rehabilitation:

- # 2: The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

STAFF DISCUSSION

Chevy Chase Village has their own Urban Forest Ordinance and the proposed tree removal and replacement was reviewed and approved by the Village Board. Staff is recommending approval.

STAFF RECOMMENDATION

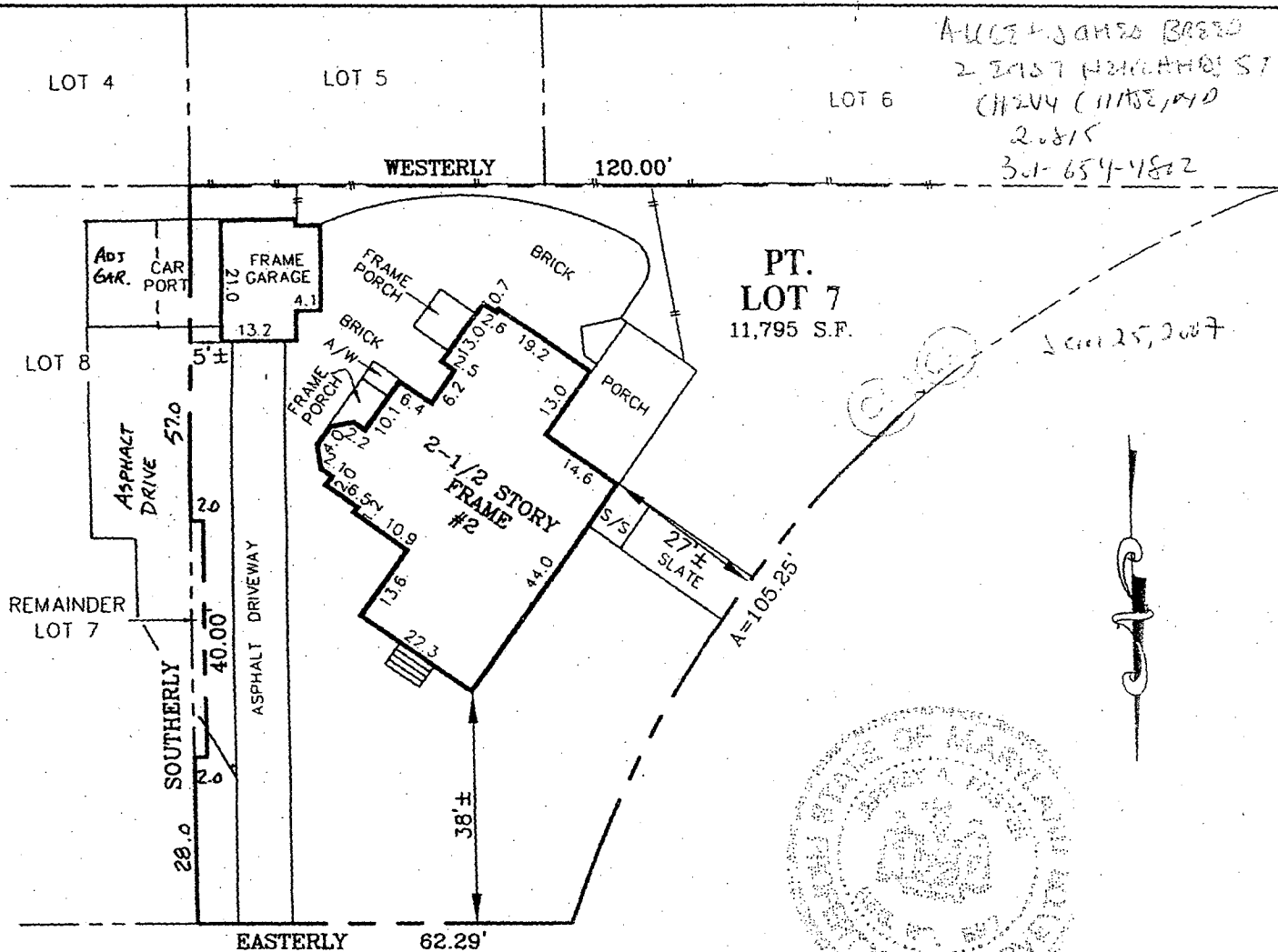
Staff recommends that the Commission **approve** the HAWP application as being consistent with Chapter 24A-8(b)(1) & (2);

and with the *Secretary of the Interior's Standards for Rehabilitation;*

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans.

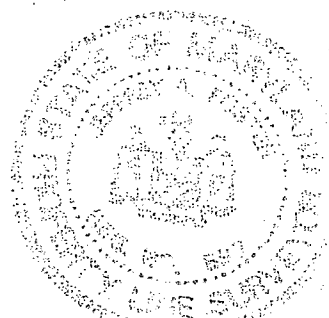
1. This plan is a benefit to a consumer intended to be used by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.
5. No Title Report furnished.



NEWLANDS STREET

(60' R/W PER PLAT)

LOCATION DRAWING
 PART OF LOT 7, BLOCK 47
 SECTION II
 CHEVY CHASE
 MONTGOMERY COUNTY, MARYLAND



Notes

1. Flood zone "N" (Not Available)
2. Setback distances as shown principal structure from pl lines are approximate. The accuracy for this drawing st taken to be no greater th or minus 1 foot. Fences, if shown, have be by approximate methods.

SURVEYOR'S CERTIFICATE

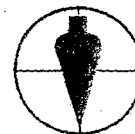
"THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION."

Jeffrey A. Foster
 MARYLAND PROPERTY LINE SURVEYOR REG. NO. 507

REFERENCES

PLAT BK. B
 PLAT NO. 50

LIBER
 FOLIO



SNIDER & ASSOCIAT
 SURVEYORS - ENGIN
 LAND PLANNING CONSI
 2 Professional Drive, Su
 Gaithersburg, Maryland
 301/948-5100, Fax 301/

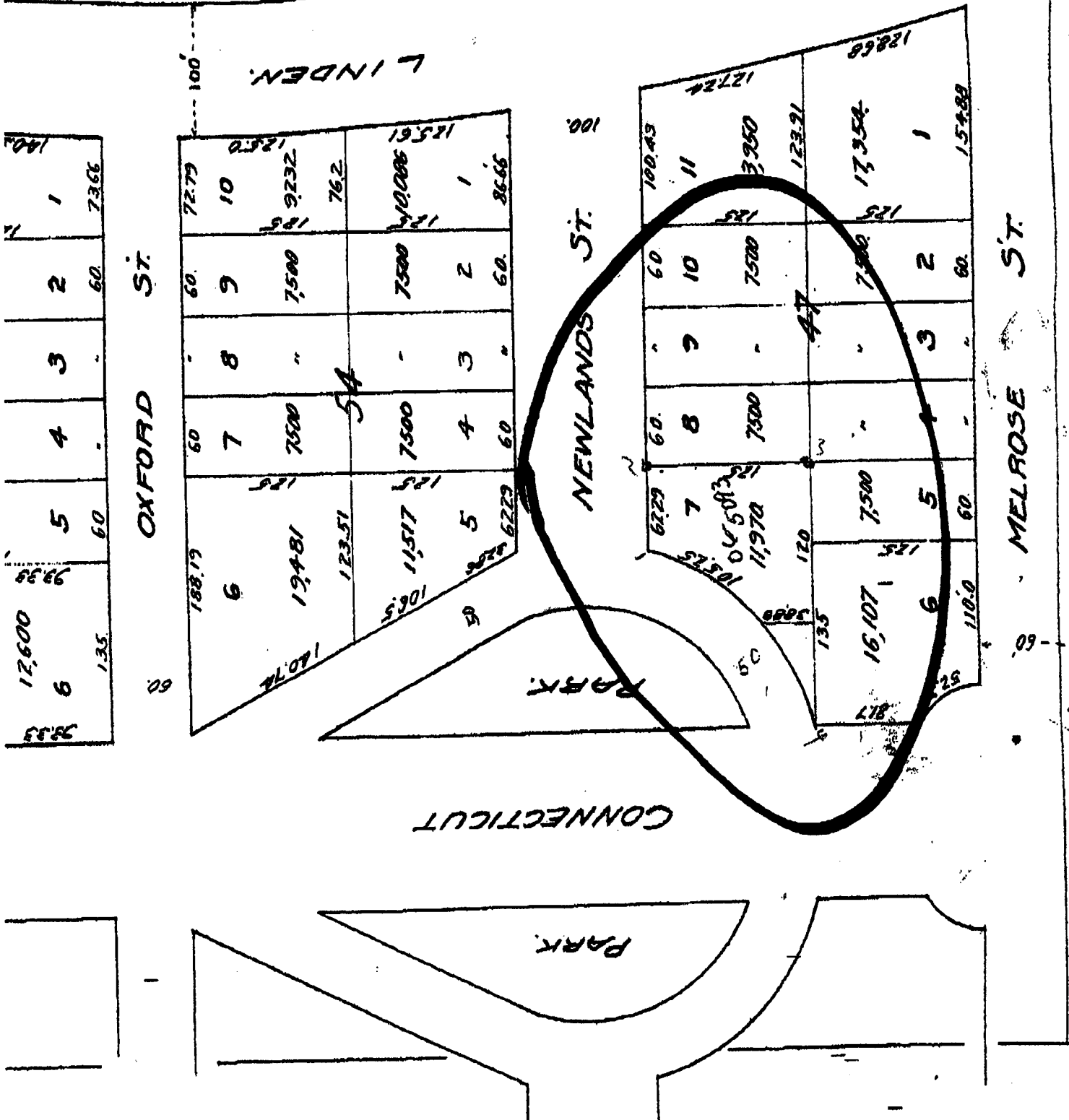
| | |
|---------------------|-----------|
| DATE OF LOCATIONS | SCALE: |
| WALL CHECK: | DRAWN BY: |
| HSE. LOC.: 08-11-06 | JOB NO.: |

COPY OF

BAR

District of
Met TE
00458758

BREED
2 East
Newland St
Chry Chase
ME 20815



| | | | | | | |
|--------|-------|----|---|---|---|-------|
| 12,600 | 9,333 | 60 | 3 | 2 | 1 | 140 |
| 6 | 1,35 | 60 | 5 | 4 | 3 | 7,366 |

| | | | | | | |
|--------|-------|-------|-------|-------|-------|--------|
| 188.17 | 60 | 72.79 | 60 | 9 | 10 | 125.21 |
| 6 | 7 | 8 | 9 | 10 | 11 | 125.21 |
| 19,481 | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 | 125.21 |
| 123.51 | 5A | 76.2 | 125 | 125 | 125 | 125.21 |
| 11,517 | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 | 125.21 |
| 106.5 | 5 | 4 | 3 | 2 | 1 | 125.21 |
| 62.29 | 60 | 60 | 60 | 60 | 60 | 86.66 |

| | | | | | | |
|--------|-------|--------|--------|--------|--------|--------|
| 62.29 | 60 | 60 | 60 | 60 | 60 | 100.43 |
| 7 | 8 | 9 | 10 | 11 | 12 | 127.24 |
| 11,970 | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 | 127.24 |
| 120 | 47 | 123.21 | 123.21 | 123.21 | 123.21 | 123.21 |
| 16,107 | 7,500 | 7,500 | 7,500 | 7,500 | 7,500 | 123.21 |
| 6 | 5 | 3 | 2 | 1 | 1 | 123.21 |
| 110.0 | 60 | 60 | 60 | 60 | 60 | 154.89 |

Alice and James Breed
2 East Newlands St.
Chevy Chase, MD 20815
301-654-4802
alice@postman.com

October 26, 2006

Chevy Chase Village Board of Managers
5906 Conn. Ave.
Chevy Chase, MD 20815

I request permission to remove 2 cherry trees from the front of our property at 2 E. Newlands St. There are several reasons for this request.

The existing trees are only in fair condition per an inspection by Mr. Dunn on October 10th. Three other cherry trees that were planted along our front property line have already died.

These two remaining trees produce a lot of shade as you can see by the accompanying photos. The privet hedge that is under them is spindly and not attractive. Our plan is to replace the privet with more vital material but we want to be sure that the new hedge will grow, survive and provide interior privacy.

Our goal is to create a sunny, private space which we can use and enjoy. The only sunny places are in the front of the house. In addition, they are small "moving targets" that only last until 3pm.

The shade from the the two cherry trees limits our usage and promotes conditions conducive to insects (primarily mosquitos). Given the "mature state" of over 60, West Nile disease from mosquitos poses a serious threat to our health. Finally, I'm sure passersby will not want to see an elderly lady in a bathing suit sitting in a chair reading a book!!

I propose to plant 2 trees- perhaps ginkgo- to replace the two cherries, but in a spot that will allow for some enjoyment of the sun. I am open to suggestions from the board about the location and type of replacement trees.

Separately, I would like to know if it is possible to donate evergreen trees to be planted in the crescent park across from our house- perhaps near the hollies- to give us a little more privacy from Conn. Ave.

We have just moved to Newlands from Mclean, Va. Both of us are fond of trees. Indeed, while we lived in Mclean, we planted over 30 trees on our property.

I hope the board will look favorably on my request to take down the 2 cherries. I like the trees, but I like the ability to read in privacy in the sun and without mosquitoes even more.

Respectfully,

Alice Breed

CHEVY CHASE VILLAGE
5906 CONNECTICUT AVENUE
CHEVY CHASE, MD 20815
Telephone (301) 654-7300
Fax (301) 907-9721
ccv@montgomerycountymd.gov

GEOFFREY B. BIDDLE
Village Manager
DAVID R. PODOLSKY
Legal Counsel

BOARD OF MANAGERS
DOUGLAS B. KAMEROW
Chair
DAVID L. WINSTEAD
Vice Chair
SUSIE EIG
Secretary
GAIL S. FELDMAN
Treasurer
BETSY STEPHENS
Assistant Treasurer
PETER M. YEO
Board Member
ROBERT L. JONES
Board Member

December 8, 2006

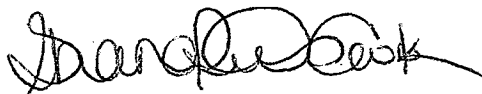
Mr. and Mrs. James H. Breed
2 Newlands Street
Chevy Chase, MD 20815

Dear Mr. and Mrs. Breed:

Enclosed please find a copy of the signed decision approving the removal of two Cherry trees located in the front yard of your property. The Village's Tree Removal Permit will not be issued until the Historic Area Work Permit has been obtained from the Historic Preservation Commission.

If you have any questions or require additional information, please contact the Village office at (301) 654-7300.

Sincerely,



Shana R. Davis-Cook
Manager of Administration
Chevy Chase Village

Enclosure

B.0220 2 East Newland St, CC, MD 20815 (3 PM)

CONN AVE

The 2 cherry trees are circled



Newland St

NOV 2

CONN AVE



Newland St

Tree Inspection Request

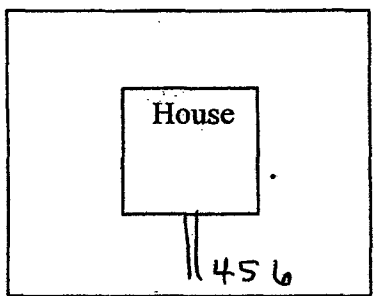
Address 2 Newlands Date 10-10-06

Resident's Name Aria Breed Phone #s _____

Circle One: **Private Property** Village Street/Park Tree _____

P-2

Concern(s) _____



Call taker to indicate location of tree(s) using "plat" and Number designation itemized below.

- #1 - _____
- #2 - _____
- #3 - _____

(Please list no more than three trees per page)

***** To be completed by arborist *****

Tree #4: Type and Diameter Cherry 4.8" DBH fair
 Assessment: undersize

Tree #5: Type and Diameter Cherry 15.4" DBH fair
 Assessment: _____

Tree #6: Type and Diameter Cherry 13.3" DBH fair
 Assessment: _____

| If removal requested. - | Approved | Denied | Permit Required? | Y | N |
|------------------------------|-------------------------------------|-------------------------------------|------------------|-------------------------------------|-------------------------------------|
| Tree 4 | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Tree 5 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Tree 6 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Signature <u>[Signature]</u> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Date 10-17-06

MAILING LIST FOR APPEAL A-1586 (A) & (B)

**MR. AND MRS. JAMES H. BREED
2 NEWLANDS STREET
CHEVY CHASE, MARYLAND 20815**

| Adjoining and confronting property owners | |
|---|--|
| ✓ Mr. and Mrs. Robert Jones Or Current Resident 1 Newlands Street Chevy Chase, MD 20815 | Mr. Dane H. Butswinkas Ms. Megan E. Rupp Or Current Resident 3 Newlands Street Chevy Chase, MD 20815 |
| Ms. Harriet F. C. Klosson Mr. Charles S. C. Klosson Or Current Resident 4 Newlands Street Chevy Chase, MD 20815 | Mr. and Mrs. Norman Asher Or Current Resident 1 East Melrose Street Chevy Chase, MD 20815 |
| ✓ Ms. Marguerite P. Foley Ms. Anne M.H. Foley Or Current Resident 5 East Melrose Street Chevy Chase, MD 20815 | Mr. and Mrs. Joseph M. Coffey Or Current Resident 7 East Melrose Street Chevy Chase, MD 20815 |
| ✓ Mr. and Mrs. Karl W. Corby, III Or Current Resident 2 West Newlands Street Chevy Chase, MD 20815 | Mr. and Mrs. Alec Smith Or Current Resident 1 West Melrose Street Chevy Chase, MD 20815 |
| ✓ Chevy Chase Club, Inc. Or Current Resident 6100 Connecticut Avenue Chevy Chase, MD 20815 | |

I hereby certify that a public notice was mailed to the aforementioned property owners on the 2nd day of November, 2006.



**Shana R. Davis-Cook
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815**

Tree Inspection Request

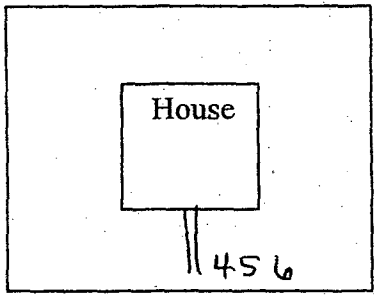
Address 2 Newlands Date 10-10-06

Resident's Name Avin Bred Phone #s _____

Circle One: Private Property Village Street/Park Tree _____

Concern(s) _____

P-2



Call taker to indicate location of tree(s) using "plat" and Number designation itemized below.

- #1 - _____
- #2 - _____
- #3 - _____

(Please list no more than three trees per page)

***** To be completed by arborist *****

Tree #~~4~~ Type and Diameter Cherry 4.8" DBH fair
 Assessment: under size

Tree #~~5~~ Type and Diameter Cherry 15.4" DBH fair
 Assessment: _____

Tree #~~6~~ Type and Diameter Cherry 13.3" DBH fair
 Assessment: _____

| If removal requested. - | Approved | Denied | Permit Required? | Y | N |
|------------------------------|-------------------------------------|-------------------------------------|------------------|-------------------------------------|-------------------------------------|
| Tree 4 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Tree 5 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Tree 6 | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Signature <u>[Signature]</u> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Date | <u>10-17-06</u> | | | | |

CASE NO. A-1586 (a) and (b)
Appeal of Mr. and Mrs. James H. Breed
(Hearing held November 13, 2006)

DECISION OF THE BOARD OF MANAGERS

Summary of Case

This proceeding is an appeal pursuant to Section 17-4 of the Chevy Chase Village Code. The applicants seek permission to remove one Cherry tree measuring 15.4 inches in diameter (A-1586(a)) and one Cherry tree measuring 13.3 inches in diameter (A-1586(b)) from the front yard of their property to implement a new landscaping plan. The Village Manager denied the application finding that none of the conditions described in Section 17-3 of the Urban Forest Ordinance apply.

This application is filed pursuant to the provisions of Section 17-4 which provide:

(a) An applicant who is denied a permit by the Village Manager may appeal the Manager's decision to the Board of Managers in writing within ten (10) days of the Village Manager's denial of the application for a permit.

(b) The Board of Managers shall have the authority to permit the removal or destruction of a tree or the undertaking of any action that will substantially impair the health or growth of a tree if, after a public hearing, the Board finds that such removal, destruction or other action will not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties and can be permitted

without substantial impairment of the purpose and intent of this Ordinance.

The subject property is Part of Lot 7, Block 47, in the "Chevy Chase, Section 2" subdivision, also known as 2 Newlands Street, Chevy Chase, Maryland 20815, in the R-60 zone. Notice of the hearing in this matter was posted at the Village Hall and on the property and was mailed to all abutting property owners on November 2, 2006.

Summary of Evidence

The applicants submitted an application, a location drawing showing the location of the trees in relation to improvements on the subject property and the public right of way, photographs of the applicants' front yard and a letter explaining the basis for their request. A tree inspection report, prepared by the Village Arborist, was submitted for the record. A photograph taken by Village staff showing the appearance and location of the trees was entered into the record of this matter.

The applicants' letter in support of the application included the following representations.

The existing trees are only in fair condition per an inspection by Mr. Dunn on October 10th. Three other cherry trees that were planted along our front property line have already died.

These two remaining trees produce a lot of shade as you can see by the accompanying photos. The privet hedge that is under them is spindly and not attractive. Our plan is to replace the privet with more vital material but

we want to be sure that the new hedge will grow, survive and provide interior privacy.

Our goal is to create a sunny, private space which we can use and enjoy. The only sunny places are in the front of the house. In addition, they are small "moving targets" that only last until 3pm.

The shade from the two cherry trees [sic] limits our usage and promotes conditions conducive [sic] to insects (primarily mosquitos [sic]). Given are [sic] "mature state" of over 60, West Nile disease from mosquitos [sic] poses a serious threat to our health. Finally, I'm sure passersby will not want to see an elderly lady in a bathing suit sitting in a chair reading a book!!

I propose to plant 2 trees- perhaps ginkgo- to replace the two cherries, but in a spot that will allow for some enjoyment of the sun. I am open to suggestions from the board about the location and type of replacement trees.

. . .

We have just moved to Newlands from Mclean, Va. Both of us are fond of trees. Indeed, while we lived in Mclean, we planted over 30 trees on our property.

I hope the board will look favorably on my request to take down the 2 cherries. I like the trees [sic], but I like the ability to read in privacy in the sun and without mosquitoes even more.

At the hearing, Mrs. Breed appeared and testified that the applicants' yard has very limited sunlight. According to Mrs. Breed the applicants' privet hedge cannot grow due to the lack of sunlight. In addition, she asserted that additional sunlight would reduce the wet spots in the applicants' yard which would reduce the mosquito population.

Bob Elliott, of the Village Tree Committee, reported that the Tree Committee concurs with the removal of the trees because the trees are small and ill-formed and do not materially contribute to the Village tree canopy.

No other testimony in support of or in opposition to the application was received.

Findings of Fact

The Board has considered the factors set forth in Section 17-6 of the Urban Forest Ordinance and makes the following findings.

Sec. 17-6(a) Criteria specified in Section 17-3.

There is no evidence to support the conclusion that the subject trees are seriously diseased or dying. Although there is evidence that the trees are in only "fair" condition, there is insufficient evidence to find that the trees constitute a hazard to the safety or health of persons, property or other trees.

Sec. 17-6(b) The reasons cited by the applicant for wanting to remove or destroy the tree.

The applicants propose to remove the trees to implement a new landscaping plan including a hedge and two new canopy trees.

Sec. 17-6(c) The reasons, if any, cited by residents who are either in favor of or in opposition to the issuance of the permit.

Other than the applicants, no residents in favor of or in opposition to the issuance of the tree removal permit submitted any written or oral evidence.

Sec. 17-6(d) Whether tree clearing is necessary to achieve proposed development, construction or land use otherwise permitted under the Village Code, and the extent to which there is no reasonable alternative.

Based on the evidence of record, including, but not limited to the applicants' representations, the report submitted by the Village arborist and the testimony by Mr. Elliott of the Village Tree Committee, the Board finds that removal of the Cherry trees is necessary to implement the applicants' landscaping plan which is otherwise permitted by the Village Code. The Board further finds that there is no reasonable alternative to the removal of the two Cherry trees.

Sec. 17-6(e) Whether the applicant proposes reforestation.

The applicants' proposed reforestation with two new trees. The Village Tree Committee recommended that the applicants be required to install two reforestation trees. The Board concurs with the Village Tree Committee's recommendation.

Sec. 17-6(f) Hardship to the applicant if a permit for the requested action is denied.

The applicants propose to maintain all other canopy trees on the subject property and to reforest. Requiring the applicants to forego a usable yard and implement a landscaping plan that is otherwise in full compliance with the Village Code in an attempt to save two trees, which are in only fair

condition, where there are other mature canopy trees on the subject property, would impose a hardship on the applicants without any counterbalancing benefit to the public.

Sec. 17-6(g) The desirability of preserving a tree by reason of its age, size or outstanding qualities, including uniqueness, rarity or species specimen.

Although the trees are mature and large enough in width to be protected by the Village Urban Forest ordinance, the Cherry trees are in only fair condition and do not significantly contribute to the Village tree canopy. The Board finds that, given all of the facts and circumstances of this case, the Cherry trees do not have outstanding qualities such that preservation of the trees is required.

Sec. 17-6(h) Such other relevant matters as will promote fairness and justice in deciding the particular case.

Taking all of the foregoing findings into consideration, with the reforestation agreed to by the applicants, the Board finds that the removal of the Cherry trees would not materially impair the purposes of the Village Urban Forest Ordinance.

Conclusions

Based upon the testimony and evidence of record, the Board finds that the removal of the 15.4-inch diameter Cherry tree and the 13.3-inch diameter Cherry tree would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties and can be permitted without substantial impairment of the purpose and intent of the Village

Urban Forest Ordinance, provided that the applicants comply with the conditions set forth in the following paragraph.

Accordingly, the request for a permit to remove a 15.4-inch diameter Cherry tree and a 13.3-inch diameter Cherry tree is granted, subject to the following conditions:

1. the trees must be removed on or before November 13, 2007, or this permit shall become void;

2. the applicants must reforest with at least 2 deciduous hardwood trees, which must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet; and

3. the installation of the reforestation trees shall be completed on or before November 13, 2007, and such trees shall be considered reforestation trees subject to regulation under the Village Urban Forest Ordinance.

Resolution

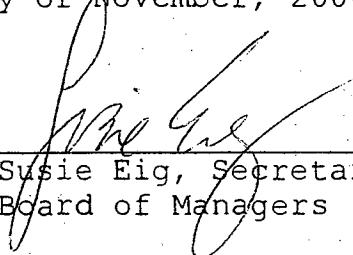
The Chevy Chase Village Board of Managers hereby adopts the following Resolution:

BE IT RESOLVED by the Board of Managers of Chevy Chase Village that the Decision stated above be adopted as the decision required by Section 17-5(b) of the Chevy Chase Village Code, and the Village Manager be and he is hereby authorized and directed to issue a permit for the removal of a 15.4-inch diameter Cherry tree and a 13.3-inch diameter Cherry tree upon the conditions, terms and restrictions set forth above.

The foregoing Resolution was adopted by the Chevy Chase Village Board of Managers with the following members voting in favor of the Resolution: Susie Eig, Gail Feldman, Douglas B. Kamerow, David L. Winstead and Peter Yeo.

Robert Jones and Betsy Stephens were not present for the hearing in this matter and did not participate in this Decision.

I HEREBY CERTIFY that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers on this 30th day of November, 2006.



Susie Eig, Secretary
Board of Managers