

4 NEWLANDS HAVN 35/13-070  
CROWN MADE VILLAGES



## HISTORIC PRESERVATION COMMISSION


Isiah Leggett  
County Executive

Julia O'Malley  
Chairperson

Date: April 26, 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 #449149, Tree removal

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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 April 25, 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: Harriet Klosson

Address: 4 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.





RETURN TO DEPARTMENT OF PERMITTING SERVICES  
255 ROCKVILLE PIKE, 2nd FLOOR ROCKVILLE, MD 20850  
240/777-6370

DPS - #8

A

HISTORIC PRESERVATION COMMISSION  
301/563-3400

APPLICATION FOR  
HISTORIC AREA WORK PERMIT

Contact Person: OWNER  
Daytime Phone No.: 301-654-3759

Tax Account No.: 00456387  
Name of Property Owner: Harriet F. C. Klosson Daytime Phone No.: 301-654-3759  
Address: 4 Newlands St CHEVY CHASE MD 20815  
Street Number City State Zip Code  
Contractor: MR. PAUL WOLFE Phone No.: 301-881-8130  
Contractor Registration No.: 330  
Agent for Owner: MR. PAUL WOLFE Daytime Phone No.: 301-881-8130

LOCATION OF BUILDING/PREMISE

House Number: 4 NEWLANDS ST Street: \_\_\_\_\_  
Town/City: CHEVY CHASE Nearest Cross Street: CONN. AVE  
Lot: 8 Block: 47 Subdivision: 2  
Liber: \_\_\_\_\_ Folio: \_\_\_\_\_ Parcel: \_\_\_\_\_

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:  Construct  Extend  Alter/Renovate  Move  Install  Wreck/Flaze  Revision  Repair  Revocable  
CHECK ALL APPLICABLE:  A/C  Slab  Room Addition  Porch  Deck  Shed  Solar  Fireplace  Woodburning Stove  Fence/Wall (complete Section 4)  Other: TREE REMOVAL  
1B. Construction cost estimate: \$ 1,500 5 trees require permit  
1C. If this is a revision of a previously approved active permit, see Permit # \_\_\_\_\_

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01  WSSC 02  Septic 03  Other: \_\_\_\_\_  
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.

Harriet F. C. Klosson 3 March 2007  
Signature of owner or authorized agent Date

Approved: 449149 ✓ Julia D. Mallery For Chairperson, Historic Preservation Commission  
Disapproved: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: 4-26-07  
Application/Permit No.: \_\_\_\_\_ Date Filed: \_\_\_\_\_ Date Issued: \_\_\_\_\_

SEE REVERSE SIDE FOR INSTRUCTIONS

**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:

Twenty-five years ago, we planted dwarf cypress trees along the edge, east, south west side, of our backyard to screen and give us privacy. The trees have become far too tall, some are in the middle of electric lines taking over the Murphy driveway. I wish to remove all trees on east and west side and replace with an evergreen which will not exceed 15 feet. Five of the 24 trees need a permit, the others do not.

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

The backyard garden is small and the proposed plants are overpassing. The east side is along the Murphy driveway and garden. The west side is along our garage. I plan to leave the trees on the south side until a later date.

**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**

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**

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.

PLEASE PRINT (IN BLUE OR BLACK INK) OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.  
PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE. AS THIS WILL BE PHOTOCOPIED DIRECTLY ONTO MAILING LABELS.

**MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION**  
**STAFF REPORT**

<b>Address:</b>	4 Newlands Street, Chevy Chase	<b>Meeting Date:</b>	04/25/07
<b>Resource:</b>	Contributing Resource Chevy Chase Village Historic District	<b>Report Date:</b>	04/18/07
<b>Applicant:</b>	Harriet F. C. Klosson	<b>Public Notice:</b>	04/11/07
<b>Review:</b>	HAWP	<b>Tax Credit:</b>	None
<b>Case Number:</b>	35/15-070	<b>Staff:</b>	Anne Fothergill
<b>PROPOSAL:</b>	Tree removal and replacement		
<b>RECOMMENDATION:</b>	Approve		

**ARCHITECTURAL DESCRIPTION**

**SIGNIFICANCE:** Contributing Resource within the Chevy Chase Village Historic District  
**STYLE:** Colonial Revival / Craftsman  
**DATE:** c. 1908

**PROPOSAL**

The applicant proposes to remove five Leyland Cypress trees (16", 10", 10", 9", 8" diameter) that they planted in 1982 at the rear of the property on the right and left sides. The applicant proposed to replace them with arborvitae in the same location. On February 12, 2007 the Chevy Chase Village Board of Managers approved the tree removal and replacement 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

“**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**

The Chevy Chase Village Board has determined that the proposed tree removal and replacement complies with their Urban Forest Ordinance. 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);

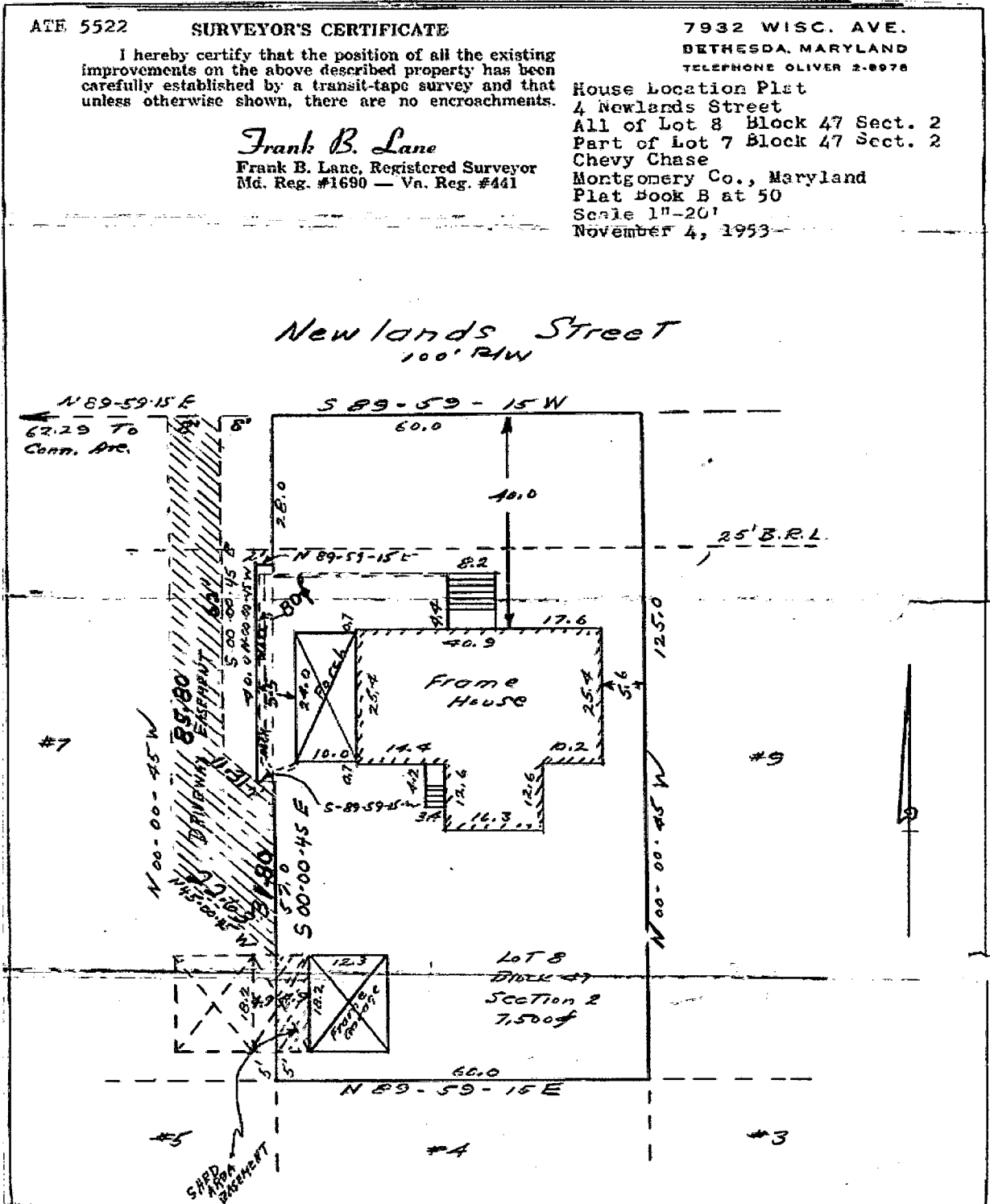
and with the *Secretary of the Interior’s Standards for Rehabilitation*;

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.



# Site Plan: 4 Newlands Street, Chevy Chase, Md. 20815

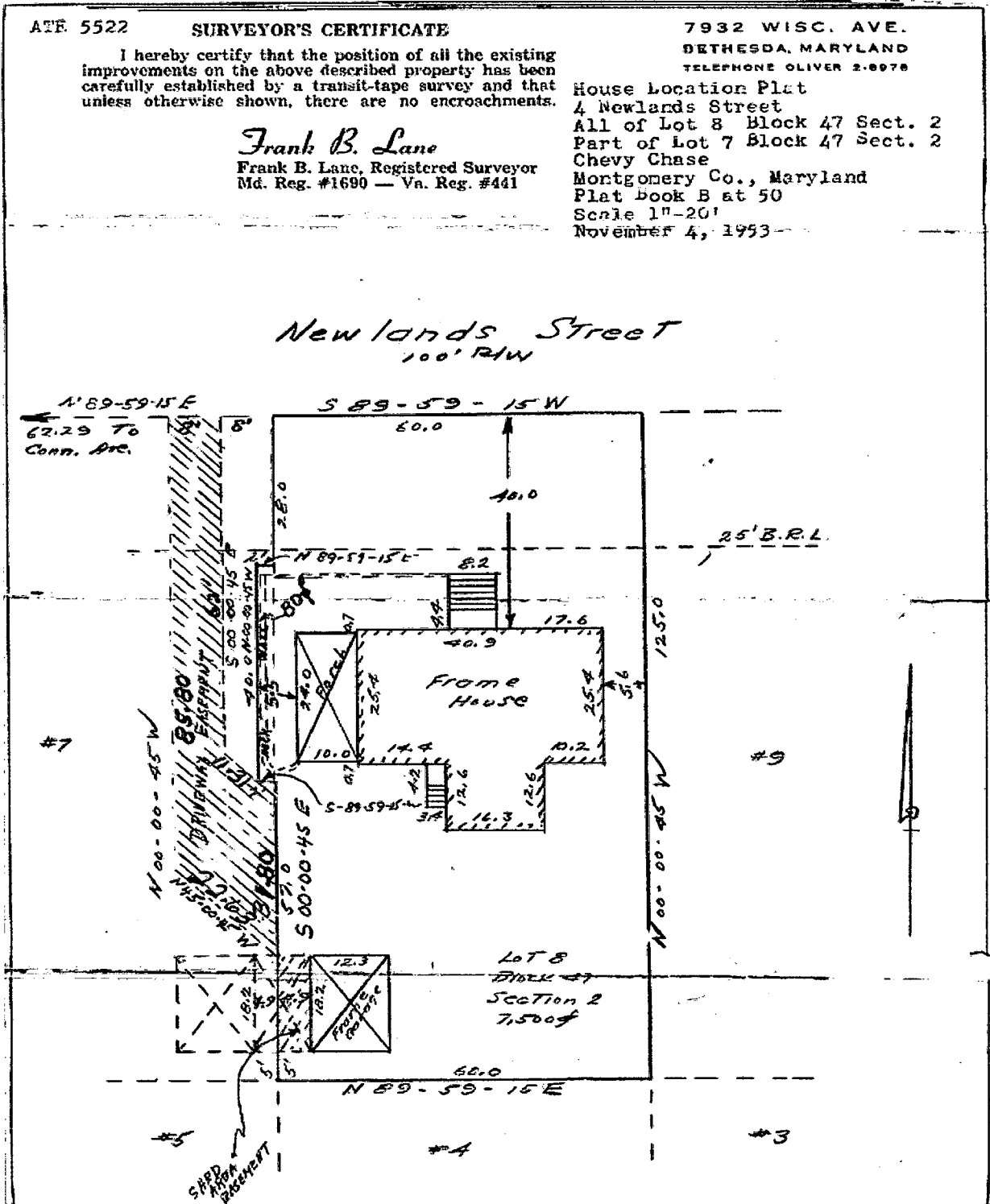


Applicant: Harriet F. C. Klosson

Page:



Site Plan: 4 Newlands Street, Chevy Chase, Md. 20815



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*

RECEIVED  
MAR 06 2007  
DIV. OF CASE WORK MCH

March 1, 2007

BOARD OF MANAGERS  
DOUGLAS B. KAMEROW

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DAVID L. WINSTEAD  
*Vice Chair*  
SUSIE EIG  
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*Assistant Treasurer*  
PETER M. YEO  
*Board Member*  
ROBERT L. JONES  
*Board Member*

Ms. Harriet Klosson  
4 Newlands Street  
Chevy Chase, MD 20815

Dear Ms. Klosson:

Enclosed please find a copy of the signed decision approving the removal of five Leyland Cypress trees located in the rear 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,



Michael Younes  
Chevy Chase Village

Enclosures

CASE NO. A-1597(a) through (e)  
Appeal of Harriet F.C. Klosson, Michael Klosson, and James R. Worsley, Jr., Trustees of the  
Residuary Non-Marital Trust Under The Last Will and Testament of Boris H. Klosson dated  
March 11, 1982 and Harriet F.C. Klosson, Trustee of the Harriet F.C. Klosson Inter Vivos  
Declaration of Trust dated December 10, 1999  
(Hearing held February 12, 2007)

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 (a) one Leyland Cypress tree measuring 16.2 inches in diameter which is located in the rear yard of the property; (b) one Leyland Cypress tree measuring 8.5 inches in diameter which is located in the rear yard of the property; (c) one Leyland Cypress tree measuring 10.0 inches in diameter which is located in the rear yard of the property; (d) one Leyland Cypress tree measuring 10.0 inches in diameter which is located in the rear yard of the property; and (e) one Leyland Cypress tree measuring 8.0 inches in diameter which is located in the rear yard of the property. 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 Lot 8 and Part of Lot 7, Block 47, in the “Chevy Chase, Section 2” subdivision, also known as 4 Newlands Street, Chevy Chase, Maryland 20815. 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 February 1, 2007.

### **Summary of Evidence**

The applicants submitted an application, a site plan showing the location of the subject trees, a site plan showing the location of proposed planting sites, and a letter explaining the basis for their request. A tree inspection report, prepared by the Village Arborist, was submitted for the record. Photographs taken by Village staff showing the appearance and location of the trees were entered into the record of this matter.

The applicants’ letter in support of the application included the following statement regarding the subject trees.

Over the years the trees have grown very tall and some diseased and thinned. I would like to remove all the trees on the east and west sides of the yard and replace with an evergreen that will not exceed 12-15’, which will enhance the overall appearance of the garden. The Arborist report marked [the subject] trees to stay—the effect of his choices means that there would be three very tall old trees in the line of much smaller new trees on the east side and two on the left side (west) which would give the garden a lopsided look. I propose to keep the existing line of trees on the south side of the garden except the dead one and the one which interferes with the power line.

At the hearing, Harriet F.C. Klosson appeared and testified that the subject Leland Cypress trees were originally planted as a screen for the subject property’s garden, but have since

grown too tall and become diseased. Ms. Klosson asserted that the Leyland Cypress trees were not a good choice to enclose the small garden. She reiterated that the applicants wish to replace the subject trees with more suitable hedge material. She stated that other Leyland Cypress trees located along the southern boundary of the applicants' yard would remain. She stated that due to the nature of the garden and the limited space available, there is insufficient space for large replacement trees.

Ms. Klosson further asserted that the subject trees should be removed because they pose an unsafe condition. She explained that the subject trees lean over when covered in snow and that one of the trees leans over a neighbor's driveway. Ms. Klosson testified that her neighbors on both sides, Mr. and Mrs. Breed of 2 Newlands Street and Mr. and Mrs. Murphy of 6 Newlands Street, support the request to remove the five Leland Cypress trees.

Sam Lawrence, of the Village Tree Committee, testified that the majority of the Committee has no objection to the removal of the trees. Mr. Lawrence stated that the subject property does not contain enough room for replacement canopy trees.

No other testimony or evidence 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 a conclusion that the subject trees are seriously diseased or dying. Although there is evidence that the trees are close to each other and may at some point

in the future pose a risk, there is insufficient evidence to find that the trees currently 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 trees.**

The applicants propose to remove the trees to eliminate what they believe to be an unsafe condition and to improve the appearance of the applicants' garden. The applicants' landscaping plan calls for smaller evergreen trees that, according to the applicants, will improve the appearance of the garden. Ms. Klosson asserted that allowing the subject trees to remain would "give the garden a lopsided look." Although aesthetics may be considered, the primary purpose of the Village Urban Forest Ordinance is preservation and maintenance of the urban forest, including the tree canopy. The Board finds that the subject Leyland Cypress trees do not materially contribute to the urban forest.

**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.**

No correspondence or testimony in opposition was submitted. The applicants represented that their neighbors at 2 Newlands Street and 6 Newlands Street support the request. The Village Tree Committee had no objection to the proposed removal.

**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 Board finds that removal of the subject trees is necessary to implement the proposed landscaping plan. The Board further finds that it would not be practical to preserve the five Leyland Cypress trees and also assure the healthy development of the evergreen trees

proposed in the landscaping plan. Thus, if the applicants are to implement the landscaping plan as proposed, there is no reasonable alternative to the removal of the subject trees.

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

The applicants do not propose to reforest with new canopy trees. The Village Tree Committee found that the subject property lacks sufficient space for new canopy trees. The Board finds that, given the nature of the garden and the limited space available for new canopy trees, reforestation should not be required.

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

The appearance of the applicants' garden will be improved if the subject trees are removed. The applicants propose to maintain other healthy canopy trees on the subject property. Due to the nature of the applicants' garden, which is relatively small and enclosed by trees, there is limited space for new plantings unless the subject trees are removed. Requiring the applicants to forego implementation of a landscaping plan that is otherwise in full compliance with the Village Code in an attempt to save the five Leyland Cypress trees, which are not particularly desirable, 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 significant in size, the Leyland Cypress trees are not otherwise remarkable. The Board finds that, given all of the facts and circumstances of this case, the five Leyland Cypress 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, the Board finds that the removal of the subject Leyland Cypress 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 five Leyland Cypress trees 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 condition set forth in the following paragraph.

Accordingly, the request for a permit to remove the (a) 16.2-inch diameter Leyland Cypress tree; (b) 8.5-inch diameter Leyland Cypress tree; (c) 10.0-inch diameter Leyland Cypress tree; (d) 10.0-inch diameter Leyland Cypress tree; and (e) 8.0-inch diameter Leyland Cypress tree, all located in the rear yard of the property, is granted, provided however that the trees must be removed on or before February 12, 2008, or this permit shall become void.

**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 the (a) 16.2-inch diameter Leyland Cypress tree; (b) 8.5-inch diameter Leyland Cypress tree; (c) 10.0-inch diameter Leyland Cypress tree; (d) 10.0-inch diameter Leyland Cypress tree; and (e) 8.0-inch diameter Leyland Cypress tree, all located in the rear yard of the property, 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, Robert Jones, Douglas B. Kamerow, David L. Winstead, and Peter Yeo. Betsy Stephens was 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 26<sup>th</sup> day of February, 2007.



Susie Eig, Secretary  
Board of Managers

## 4 Newlands Street

16.2-inch diameter Leyland Cypress tree



8.5-inch diameter Leyland Cypress tree





## 4 Newlands Street

8.0-inch diameter Leyland Cypress tree





# 4 Newlands Street

10.0-inch diameter Leyland Cypress tree



10.0-inch diameter Leyland Cypress tree

