

TOWN OF CHEVY CHASE
COUNCIL MEETING
January 13, 2021

TRAFFIC STUDY PRESENTATION (6:00-7:00 p.m.)

- I. GENERAL BUSINESS (7:00-7:15 p.m.)
 - A. Call to Order
 - B. Approval of Meeting Minutes
 - C. Acceptance of December 2020 Financial Report
 - D. Town Manager's Report
 - E. Public Comments

- II. VARIANCE HEARINGS (7:15-7:45 p.m.)
 - A. Watson/Navarro-Watson, 7418 Ridgewood Avenue, Rear Yard Setback, Side Yard Setback & Wall Plane Length

- III. PUBLIC HEARINGS (7:45-8:00 p.m.)
 - A. Public Hearing on an Ordinance to Activate an Emergency Plan for the 2021 Town Council Election

- IV. COUNCIL DISCUSSIONS (8:00-9:00 p.m.)
 - A. Zimmerman Park Redevelopment
 - B. ZTA 20-07/Thrive Montgomery 2050
 - C. Noise Regulations & Rebate Program Publicity

- V. OTHER BUSINESS (9:00-9:15 p.m.)

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

How to Join the Council Meeting via Zoom[®]

Join Online:

<https://us04web.zoom.us/j/3016547144>

Join by Phone:

301-715-8592

Meeting ID: 301 654 7144

MEMORANDUM

I-D

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Town Manager's Report
DATE: January 13, 2021

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

- Continued management and oversight of:
 - Town-wide traffic study
 - Zimmerman Park redevelopment project
 - Utility work and concrete repairs
- Assisted with evaluating and responding to proposed County ZTA 20-07.
- Organized and attended several meetings on Thrive Montgomery 2050 and ZTA 20-07.
- Met with members of the Land Use Committee to discuss applicability of County Code in Town.
- Met with members of the Racial Justice Subcommittee to discuss procedural issues.
- Met with Councilmember Rush to discuss PEPCO's recent rate case filing and proposed LED streetlight conversion.
- Implemented the Battery-Powered Blower and Equipment Rebate Program.
- Assisted the Long-Range Planning Committee with tracking Bethesda redevelopment projects.
- Assisted the Public Services Committee with responding to resident requests and inquiries regarding public safety, traffic, and street lighting.

STAFF REPORT

TO: Town Council
FR: Todd Hoffman, Town Manager
RE: Watson/Navarro-Watson, 7418 Ridgewood Avenue, Rear Yard Setback, Side Yard Setback & Wall Plane Length
DATE: January 13, 2021

Simon Watson and Pamela Navarro-Watson, 7418 Ridgewood Avenue, propose to construct a second-story addition over an existing screened porch that will be converted to a sunroom. The addition requires the following variances:

- A corner of the proposed addition projects 3 feet into the 20-foot required rear yard setback. Town building regulations do not allow for the addition to project into the rear yard setback; therefore, a variance is required.
- The proposed addition projects 1.3 feet into the 8.3-foot required side yard setback from the south property line. Town building regulations do not allow for the addition to project into the side yard setback; therefore, a variance is required.
- The proposed addition will create a wall plane with a length of 39.6 feet on the second floor along the south façade of the house. Town building regulations prohibit walls with a plane length greater than 34 feet unless there is an offset or articulation in the wall plane that measures at least 2 feet deep and 5 feet long. The proposed wall does not have such an articulation; therefore, a variance is required.

Background:

As of January 8, 2021, the Town has not received any correspondence related to the requested variances.

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

Applicants' Claims for the Variance Requests:

Rear Yard Setback

1. The applicants' property is unusually shaped and quite small. The lot measures a total of 5,290 square feet, and the rear property line is angled in relation to the rear of the house.
2. Approval of the variance is requested because conforming to the Town's building ordinance would cause peculiar or unusual practical difficulties. Because of the small lot size and

angled rear property line, there is not a practical conforming location for a rear addition. Montgomery County has approved a rear-yard setback variance for the proposed addition.

3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The proposed addition is not substantial, and the position of the proposed improvements would have a minimal visual impact for the neighbors given the alignment and topography of the lots.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The addition is proposed to be constructed over an existing one-story structure, and only a small corner requires a variance from the rear yard setback requirements.
5. The proposed improvements do not impair the general plan of the Town. The addition does not increase the footprint of the existing building, and it conforms to the Town's height and gross floor area requirements.

Side Yard Setback

1. The applicants' property is unusually shaped and subject to unusual conditions. The existing house is constructed only 6.7 feet from the south side property line. The existing screened porch is constructed 7 feet from the south side property line. The addition is proposed to maintain the 7-foot setback at that portion of the house.
2. Approval of the variance is requested because conforming to the Town's building ordinance would cause peculiar or unusual practical difficulties. Aligning the addition over the wall of the existing screened porch is the most sensible way to add the space desired by the applicants. Constructing the addition at the 8.3 foot required side yard setback is not a practical solution. The proposed addition meets the County's 7 foot required side yard setback.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The proposed addition is not substantial, and the position of the proposed improvements would have a minimal visual impact for the neighbors given the alignment and topography of the lots.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The addition is proposed maintain the existing setback of the screened porch beneath it. The Town's total side yard setback requirement (both sides) are met.
5. The proposed improvements do not impair the general plan of the Town. The addition does not increase the footprint of the existing building, and it conforms to the Town's height and gross floor area requirements.

Wall Plane Length

1. The applicants' property is subject to unusual conditions. The existing house does not conform to the Town's wall plane length regulations, so the proposed addition also does not conform since the building footprint is not proposed to change.
2. Approval of the variance is requested because conforming to the Town's building ordinance would cause peculiar or unusual practical difficulties. Given the alignment of the existing wall of the house, there is no practical way to construct the addition desired by the applicants to include the required wall plane offset or articulation.
3. Approval of the variance would not be detrimental to the use and enjoyment of neighboring properties. The increase in the wall length cannot be seen from the street. The existing chimney, small (4 inch) articulation of the addition, and proposed materials will break up the visual appearance of the wall plane, even though it does not have the required articulation.
4. The request is the minimum necessary to overcome the exceptional condition that is causing the hardship. The requested variance maintains an existing non-conforming wall plane on the first floor of the house, and the additional requested wall plane length is minimal.
5. The proposed improvements do not impair the general plan of the Town.

**Town of Chevy Chase
(2021 Town Election)**

Ordinance No.:
Introduced: December 9, 2020
Adopted:
Effective Date:

**AN ORDINANCE TO DECLARE
A STATE OF EMERGENCY AND TO ACTIVATE
AN EMERGENCY PLAN FOR THE TOWN ELECTION**

WHEREAS, on March 5, 2020, in an effort to control and prevent the spread of COVID-19, a state of emergency and catastrophic health emergency was proclaimed by the Governor within the entire State of Maryland, pursuant to Maryland Code, Public Safety Article, Title 14, and the Maryland Constitution; and

WHEREAS, on October 29, 2020 and December 23, 2020, the Governor declared that the state of emergency continues and the spread of COVID-19 in the State continues to pose an immediate threat to all Marylanders of extensive loss of life or serious disability; and

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality and to protect the health, comfort, and convenience of the citizens of the municipality;

WHEREAS, the Maryland Emergency Management Agency Act (Md. Code, Public Safety Art., Sec. 14-101, *et seq.*) provides that local governments, including municipal governments, may declare a local state of emergency and so doing activates the local state of emergency plan, per Sec. 14-111; and

WHEREAS, per Sec. 14-102(a) of said Act, the legislative purposes and intents of the law include to confer on the Governor and on the executive heads or governing bodies of the political subdivisions the emergency powers provided in the Act, and per Sec. 14-107(d)(1), after a state of emergency is declared the effect of any statute or rule or regulation of an agency of the State or a political subdivision may be suspended in order to protect the public health, safety, or welfare; and

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town and for the protection and promotion of the health, safety, comfort, convenience, and welfare of the residents of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in public session assembled on the 9th day of December, 2020; and

WHEREAS, after proper notice to the public, the Town Council considered the following Ordinance in public session assembled on the ____ day of _____, 2021; and

WHEREAS, the Town Council hereby declares that a state of emergency exists, as declared by the Governor of Maryland, and

WHEREAS, as a result of the state of emergency, the Town Council finds that the temporary amendment of the Town election rules and regulations would help control and prevent the spread of COVID-19; and is necessary for the good government of the Town and for the protection and promotion of the health, safety, comfort, convenience, and welfare of the residents of the Town.

THEREFORE, BE IT ORDAINED AND ORDERED, this ____ day of _____, 2021, by virtue of the authority given to it by the Maryland Code and the Town of Chevy Chase Charter, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance.

SECTION 1. BE IT ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that the Town election to be conducted in **2021** shall proceed according to the **Emergency Plan for Town Election** attached hereto. Any election rule or regulation set forth in the Town Charter, Code of Ordinances, or election rules and regulations that is inconsistent with the provisions of the attached Emergency Plan for Town Election is hereby suspended. The Emergency Plan for Town Election shall be implemented for the **2021** election, only.

SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the aforementioned authority, that:

(1) If any part or provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect upon adoption, this ____ day of _____, 2021.

ATTEST:

TOWN OF CHEVY CHASE

Ellen Cornelius Ericson, Secretary

Cecily Baskir, Mayor

TOWN OF CHEVY CHASE
EMERGENCY PLAN FOR THE 2021 TOWN ELECTION

Election by Universal Vote by Mail

- Polling stations will not be used; no in-person voting will be afforded.
- Balloting will be undertaken by mail only. At least 14 days prior to the election, to be held on May 4, 2021, the election service provider will mail a ballot and return envelope to each qualified voter on the precinct register provided by the Montgomery County Board of Elections, and to each non-US citizen resident who has registered with the Town.
- The Town's election service provider shall affix first class postage to all balloting materials, including the ballot return envelopes.
- Voters shall mail completed ballots to the Town's election service provider. Ballot envelopes must be post-marked no later than Election Day, May 4, 2021 and must be received by the Town's election service provider by May 11, 2021 in order for the ballots to be counted.
- Ballot envelopes shall contain a control number and an affidavit requiring the voter to attest to the voter's eligibility.

Nominating Procedures

- A Town resident seeking election to the Town Council as a balloted candidate shall submit a [nominating petition](#) and a [financial disclosure statement](#) by 5 p.m. on April 13, 2021. The petition and financial disclosure shall be delivered to the Town by e-mail to townoffice@townofchevyCHASE.org. If a candidate is unable to deliver these documents by email, the candidate should contact the Town Manager at thoffman@townofchevyCHASE.org prior to the submittal deadline.
- The Town will make available a nominating petition to any Town resident seeking election to the Town Council. A candidate for office is not required to use this form but must submit a petition containing the same information on the Town's form in order for the individual's name to be placed on the election ballot.
- Nominating petitions must be supported by 5 qualified voters of the Town. Nominating petitions need not be signed by the supporting voters. Instead, the supporting voters may indicate their support for the nominee by sending an e-mail to the Town to townoffice@townofchevyCHASE.org. The e-mail should state, "I hereby nominate (name) of (address) as a candidate for the Town Council of the Town of Chevy Chase." All nominating e-mails must contain the name and address of the nominator.
- Nominating petitions are considered public documents and are subject to public inspection.
- The Election Board shall verify the qualifications of the nominees and verify the e-mails submitted to support nominating petitions after 5 p.m. on April 13, 2021.
- The Election Board shall place names in nomination if by the deadline for filing nominating petitions there are not enough names of candidates on the ballot to fill the offices being selected at the election.

Write-In Candidate Procedures

- A Town resident seeking election to the Town Council as a write-in candidate shall submit a [certificate of candidacy](#) and a [financial disclosure statement](#) by 5 p.m. on April 27, 2021. The certificate of candidacy and financial disclosure statement shall be delivered by e-mail to the Town to townoffice@townofchevyCHASE.org. If a candidate is unable to deliver these documents

by email, the candidate should contact the Town Manager at thoffman@townofchevy Chase.org prior to the submittal deadline.

- A Town resident seeking election to the Town Council as a write-in candidate shall use the Town's official certificate of candidacy.
- Certificates of candidacy are considered public documents and are subject to public inspection.
- The Election Board shall verify the qualifications of write-in candidates within 24 hours of filing.
- Within 24 hours of receipt of a certificate of candidacy, the Election Board, in coordination with the Town Manager, shall inform town residents of the filing of the certificate of candidacy and the identity of such candidate. Such notice shall be provided by posting on the Town website and by email notification (Town Crier).
- There will be appropriate blanks on the printed ballot for the purpose of adding write-in candidates at the time of the election.

Voter Registration Procedures

- A Town resident who is a citizen of the United States must be [registered as a voter of the State of Maryland in Montgomery County](#) to be eligible to vote in a Town election.
- A Town resident who is not a citizen of the United States but who is at least 18 years old, who has resided within the Town for at least 30 days, and who is not otherwise disqualified from voting pursuant to Section 401(b) of the Town Charter may register to vote in a Town election by submitting a completed [Town of Chevy Chase, Maryland Non-U.S. Citizen Resident Voter Registration Application](#) to the Town Office by e-mail to townoffice@townofchevy Chase.org. In order to allow sufficient time for a ballot to be issued and voted, the registration must be completed by 5:00 p.m. on April 27, 2021. Town staff will retain the completed voter registration application forms.
- Town staff will prepare and maintain a list of registered voters in the Town who are not U.S. citizens and will provide that list to the Election Board and/or entity designated by the Town to assist with the conduct of the election.

Universal Vote by Mail Procedures

- Ballots shall be returned in the Town-issued return envelope.
- Voters shall write their full legal name, address, and date of birth on the Town-issued return envelope and sign the affirmation. Ballots enclosed in an incomplete, illegible, or unsigned return envelope shall not be counted. The Town will not accept copies of ballots or ballot envelopes.
- If a voter desires their ballot to be mailed to an address that is different than the address in the precinct register, the voter should inform the Town by e-mail to townoffice@townofchevy Chase.org of the address to which the ballot should be mailed. In order to allow sufficient time for a replacement ballot to be issued and voted, any such request shall be made no later than 5:00 p.m. on April 27, 2021. Upon receipt of such request, any previously issued ballot and return envelope for that voter will be voided.
- In the event an issued ballot is lost or missing, a voter may request by e-mail to townoffice@townofchevy Chase.org that the Town's election service provider cancel the previously issued ballot and return envelope and issue a new ballot and return envelope. In order to allow sufficient time for a replacement ballot to be issued and voted, any such request shall be

made no later than 5:00 p.m. on April 27, 2021. Upon receipt of such request, any previously issued ballot and return envelope for that voter will be voided.

- If a resident did not receive a ballot because the resident's name did not appear on the precinct register, the resident can request a provisional ballot by email to townoffice@townofchevy Chase.org. In order to allow sufficient time for a ballot to be issued and voted, any request for a provisional ballot shall be made no later than 5:00 p.m. on April 27, 2021. In order for the provisional ballot to be counted, the voter's registration must be reflected on the precinct register no later than Election Day, May 4, 2021.
- The Town's election service provider will keep a list of any voided or cancelled ballots and corresponding envelopes and will ensure that voided/spoiled ballots are not counted. The election service provider will provide this list to the Town Election Board upon request.
- The Town's election service provider will review each returned ballot envelope for the following to ensure a proper ballot is enclosed:
 - That the ballot return envelope was properly completed.
 - That the ballot return envelope is unopened.
 - That the control number on the ballot envelope matches the control number assigned to the voter.
 - That the person who signed the envelope is the person who was issued the ballot.
 - That the person who voted the ballot is a qualified voter in the Town.
 - That the ballot envelope has not been cancelled or spoiled.
 - That the ballot envelope is postmarked no later than May 4, 2021.
- If it is determined that a ballot is proper, the return envelope will be opened, and the ballot will be preserved. The precinct register will be updated to indicate that the voter cast a ballot.
- Any ballot that is found to be improper will not be opened. Improper ballots will not be counted provisionally.
- The Town election service provider shall provide all counted ballots, ballot return envelopes, and spoiled ballots to the Town for preservation according to the Town Charter.

Election Procedures

- The Election Board may mail or distribute by such other means deemed appropriate, a notice of the election and these emergency election procedures. The Election Board shall endeavor to issue such notice at least 4 weeks prior to the election.
- The Election Board may mail or distribute by such other means deemed appropriate, a second notice of the election, containing the names of each candidate and a biographical sketch of each candidate, if available. The Election Board shall endeavor to issue such notice at least 2 weeks prior to the election.
- Town staff shall provide all election documents, including the precinct register and the list of registered voters who are not citizens of the United States, to the election service provider designated by the Town to assist with the conduct of the election.
- A list of all qualified candidates shall be posted on the Town website no later than April 27, 2021, including any write-in candidates who have been certified.
- Within 7 days after Election Day, the Town election service provider shall tally all votes cast and shall complete and certify an Official Count of Ballot Report. Write-in votes for uncertified candidates will be reported but not counted. The Election Board shall review and certify the results on the Report.

- Upon certification of election results, a member of the Election Board shall provide a copy of the report to a member of the Town staff and notify all candidates of the election results.

Other Safety Measures

- The Election Board and Town staff may implement such other measures as are consistent with this Emergency Plan and necessary to assure a safe election and protect the public health, safety, and welfare.
- The Town Council shall meet within 15 days following the certification by the Election Board of the election results, or at such other time determined by the Town Council, for the purpose of organization and swearing in of new councilmembers.