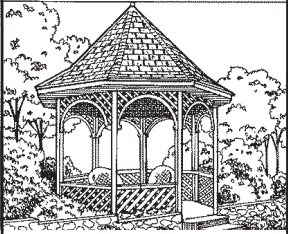


SECTION 3



Village of
CHEVY CHASE

News & Views

JANUARY 2023

CALENDAR

WEDNESDAY, JANUARY 11

Council Meeting in-person/Zoom hybrid

7:45 p.m. CCUMC library

Agenda, meeting ID and passcode will be sent via email to residents. Interested members of the public can contact the Village Manager to obtain the ID and password. At the conclusion of the regular meeting, the Council will go into executive session to review the Village Manager's performance.

MONDAY, JANUARY 9

Christmas Trees Curbside

Note: Trees can be left out curbside any Monday as yard waste..no plastic, please.

MONDAY, JANUARY 16

Martin Luther King Day

No yard waste pick-up

WEDNESDAY, FEBRUARY 8

Council Meeting

Hybrid in-person/Zoom, 7:45 p.m. CCUMC Library
See above for Zoom information.

Gazebo Park looks festive for the holidays thanks to generous help from Sarah Stephens, who along with John and Rae, Carolyn Wilson, Martha Lennon, George Waddington along with children Jack and Lillian and others. They made our park look special for the holidays with pine boughs, lights and bows.

** In accordance with the Americans with Disabilities Act and our desire to have our meetings open to everyone in our community, Council meetings are held at the Chevy Chase United Methodist Church which has handi-capped elevator access via the parking lot entrance. We are grateful to the Church for their generosity in allowing us to use their facility each month.*

PLEASE NOTE ALL NEW COUNCIL MEMBER AND STAFF EMAIL ADDRESSES

SANTA TRAVELS TO SECTION 3 WITH COOKIES

Sunday, December 18 marked a special day for many Section 3 children ages 10 and under—a visit from Santa! With his trusty helper (aka **John Stephens**) and his little red BMW Sleigh, Santa (aka **Matt Nader**)



motored his way to meet

with excited children all over the neighborhood.

Following a circuitous path to make sure no one was missed, Santa traversed the community ringing bells and horns, seeking out all the special children in our neighborhood. Special thanks to both Matt and John for taking the time and effort to make someone's Christmas even more special!



VILLAGE COUNCIL & STAFF

WWW.CHEVYCHASESECTION3.ORG

SUSAN MANNING

Chair

(202) 716-6264

susan.manning@chevychasesection3.org

LARRY LANPHER

Vice Chair

(240) 355-9011

larry.lanpher@chevychasesection3.org

ELLIE NADER

Secretary

(202) 538-0810

ellie.nader@chevychasesection3.org

CAROLYN GREIS

Buildings & Roads

(301) 718-1737

carolyn.greis@chevychasesection3.org

TOM CARROLL

Treasurer

(202) 641-3819

tom.carroll@chevychasesection3.org

ANDY LEON HARNEY

Village Manager

(301) 656-9117

villagemanager@chevychasesection3.org

GABRIEL NATHANIEL

Permit Services Coordinator

(240) 355-3876

permitting@chevychasesection3.org

NANCY NANTAIS

Village Manager Administrative Assistant

avm@chevychasesection3.org



COUNCIL ACTIONS

The Council met on Wednesday December 14, 2022 at CCUMC library and via Zoom. All Council members were present. The meeting began at 7:48 p.m.

The minutes of the November meeting as published in the December newsletter were approved after one significant change was made. The last line describing the variance requested for 6702 Brookville Rd. that was turned down unanimously by the Council should have read: "It was noted that the developer had known of the Village setback rules at the time that construction was begun and nevertheless situated the house in a manner that left no room for an additional driveway to the north of the house."

BUILDINGS & ROADS

The Council took up three variance requests submitted by the **Jester-Giblin** family of 6705 Georgia Street. The requests were to construct an eave (roof overhang) which will extend 1'-9" into the 20' rear yard setback, to construct a second eave which will similarly extend 1'-9" into the 10' north side setback, and to build a 240 sf patio which will extend 13'-7" into the 20' rear yard setback. The first two requests were supported by the unusual conditions of the property given that the existing house and proposed renovation are very close to the side and rear property lines, and limited intrusions into the setbacks are necessary to provide weather protection for the mudroom entry, functionality for the screened porch, and detailing consistent with the rest of the house. These variance requests were seen as reasonably necessary and narrowly tailored to avoid practical difficulties.

The third variance request was supported by the unusual situation of the property given that, in relation to its surrounding properties, the Jester-Giblin family do not have the benefit of a 20' rear-yard condition from any of their abutting neighbors. The location of the modestly-sized patio, the only practical one on their site, will not adversely affect the use and enjoyment of these neighboring properties. The Council voted unanimously to grant all three variance requests with two conditions of approval: that the proposed patio be of permeable construction and that an existing 212 sf concrete patio located in the south side yard and setback be removed, thus reducing the overall amount of impervious surface on their property.

The Council got an update on the Corso Chevy Chase Local Map Amendment (zoning change) application and discussed a draft letter to be sent by the Council to the Planning Board. On December 15, 2022, the Council sent the letter outlining several to the Planning Board. The letter may be viewed on the Section 3 website,

and is accessible via a red banner at the top of the homepage. On December 1, Council member Larry Lanpher and Village Manager Andy Leon Harney met with State Highway Administration officials expressing concern about the impact on traffic of the proposed 'off-set' exit and entry points to the development. Subsequent to that meeting, SHA officials wrote to the Planning Board suggesting that a single entry to the Corso Chevy Chase development at Taylor Street would 'normalize' the intersection and make it safer. A copy of the State communication is attached to the Council's Planning Board letter.

The Council discussed a proposed boundary survey grant program for residents in need of a boundary survey (per Section 3 ordinances) for a wall or a fence at or within two feet of a property line. See story this issue with the text of the proposed resolution.

The Council also discussed the need to update and amend our small cell tower ordinances to give us as much control over the placement of cell towers in the greenway as possible. These changes follow the passage of relevant Montgomery County ordinances and issuance of FCC guidance. The extensive changes follow similar changes made by neighboring jurisdictions and are recommended by our Village attorney, Ron Bolt. See story beginning on page 5 with all the changes in the proposed wording.

FINANCIAL & ADMINISTRATIVE

Changes have been made to the Maryland Freedom of Information Act which required that Section 3 and all our neighboring jurisdictions update their policies. The Council approved several changes to policy and form, and the revised policy and appropriate FOIA information request form have been posted on the Section 3 website. The changes give applicants several options to appeal the denial of an information request, and list information Section 3 proactively makes available to interested persons right on our website or which is readily available from the Village Manager.

COMMUNITY & SOCIAL

The Village Manager reported on Santa's upcoming visit (see story page 1).

The Village Manager also reported that Silver & Sons BBQ food truck would be visiting to Gazebo Park on December 15.

OTHER BUSINESS

Council chair Susan Manning noted that January 1, 2023 will mark 30 years of Village Manager Andy Harney's service to the community.

The meeting adjourned at 9:15 p.m.



NEIGHBORHOOD NEWS

Three new families have moved into Section 3 and we want to welcome them all. **Alex Stahl and Sara Davis** have moved into 7011 Connecticut Avenue from Logan Circle. Sara is a behavior therapist and Alex is in commercial real estate.

Sarah Murray and Daniel Wells and their four-year-old son **Harrison** have moved in around the corner at 7009 Taylor Street. The couple moved from Silver Spring and Palisades. Sarah is an attorney in private practice and Dan works in sales at Google. Their son Harrison (Harry) is in pre-k at St. Bart's School.

James and Jesse Tjarksen have moved into 3607 Spring Street. They have been working in New York City for the last six years and are both involved with finance. James works for a hedge fund involved in investing in health care and Tess works with families and foundations to help them invest their funds. Tess grew up in Bethesda so this is home and her parents live nearby. James hails from Wisconsin.

College acceptances are beginning to trickle in, the first round of Early Decision kids have reported in:

Rae Stephens of Delaware Street will be headed to Middlebury. **Summer Saifee** is off to Skidmore and her twin sister **Dahlia Saifee** will be join Rae at Middlebury. If you know of someone's decision, let us know we want to share the joy.

SMALL CELL TOWER LEGISLATION

With the introduction of 5G broadband cellular technology, the need for more cell towers has emerged. In anticipation of that development and in response to a FCC ruling, Section 3 and all our neighboring jurisdictions passed similar ordinances even before the County Council acted several years ago. At the same time, litigation was being resolved and what action, if any, the State and County may take was uncertain. We recognized at the time we passed our initial small cell ordinance that once the litigation settled and any State and County action was taken, we may need to amend our ordinances. The need for more cell towers has emerged. In anticipation of that development and in response to a FCC ruling, Section 3 and all our neighboring jurisdictions passed similar ordinances even before the County Council acted several

years ago. regulating the installation of small wireless telecommunications facilities in our greenways. At the time, the Montgomery County Council had not acted and the FCC was deliberating guidance that would clarify local rights and responsibilities. We recognized at the time we passed our initial small cell tower ordinance that once the County and FCC had acted, we would have to amend our ordinances.

That time has now arrived. A number of our neighbors have already adopted many of the proposed changes.

The bottom line is to prevent clutter and address aesthetic concerns by restricting how many small cell towers can be put in our community, how big they can be, how to apply and what they can and can't do, etc. We can't say no, we can only guide the design and make certain folks have the correct drawings, authority, etc. The changes are self-explanatory and protective of our environment.

The full text of the changes are included in this issue; the shaded pages 5 through 10. The changes will be voted on at the January 11 Council meeting.

PROPOSED BOUNDARY SURVEY GRANT PROGRAM

Village ordinances describing the permitting process currently require that "[i]f any structure or improvement (including a fence) is to be placed within two (2) feet of any Village building restriction line or property line, the applicant must submit a boundary survey executed by a licensed Maryland surveyor within the past ten (10) years. The Building Inspector may waive this requirement in his or her discretion."

A version of this ordinance was adopted by the Village Council in December 2009, shortly after completion of a Village-wide GIS survey which located the front two property corners for each resident's property. The goal in marking the two front corners of residents' property was to minimize the expense of a required survey by having half (or more) of it already executed by the Village if residents used the same surveyor, CPJ Associates. Initially the code referenced a survey done in the past 5 years; last year, the code was amended to change 5 years to 10. The purpose of the survey requirement is to ensure that building permit applications are based on accurate information about the location of property lines to be certain that setbacks are respected and to confirm that proposed and rebuilt fences and walls do not intrude onto adjoining properties.

This requirement has become problematic when a resident wants to put up a small wall or fence. The cost of labor and the time it takes to execute a proper boundary survey have gone up

GRANT PROGRAM, CONTINUED ON PAGE 4

GRANT PROGRAM, CONTINUED FROM PAGE 3

significantly since 2009. It used to cost between \$300 and \$500 for CPJ Associates to survey and draw up a boundary survey even if 3 or 4 of the points have been marked. The current cost range is more than double that, usually between \$600 and \$1200, depending upon the size of the lot. It is conceivable that the survey could cost our residents more than the fence they want to build. The Council is proposing a one-year pilot boundary survey grant program to address the high cost of a boundary survey for a wall or a fence. Here's how it will work (to be attached to the resolution at right.)

SECTION 3 OF THE VILLAGE OF CHEVY CHASE BOUNDARY SURVEY GRANT PROGRAM PROGRAM SUMMARY

The Boundary Survey Grant Program (the Program) shall be operated according to the following terms and conditions:

1. The Program shall be initiated on a pilot basis of one year commencing with enactment of the Program by the Council, and shall be reevaluated after such time.

2. The Program shall be subject to appropriation by the Village Council in the annual budget or amendment thereto, according to the requirements of State law and the Village Charter. The Program has been initially approved in a not-to-exceed amount of \$600.00 per property and a total Section 3 expenditure of not more than \$10,000 in one year.

3. All front corners of every property in the Village have been surveyed by CPJ Associates. Thus, applicants are encouraged to contact them as existing survey data can be used by them to create the necessary boundary survey.

4. Once a project has been surveyed and permitted, residents may apply for a grant to cover 50% of the paid cost of the boundary survey, up to \$600. Grants may be provided only to those who are required to provide a boundary survey for a Section 3 building permit for the purposes of constructing a fence or wall after the date of initiation of the Program (January 2023). The grant will be in an amount equal to reimburse the applicant for up to 50% of the boundary survey, subject to the per household limit above. Satisfactory evidence of payment for the survey must be submitted to the Village with the request for a grant.

5. The Village Manager may adopt a grant application form.

6. The pilot program will be reviewed by the Council no later than January 2024.

The wording of the proposed resolution is contained at right along with the small cell tower amended language.

RESOLUTION CREATING BOUNDARY SURVEY GRANT PROGRAM

Resolution No. 1-23

Introduced: 12.14.2022

Adopted:

Effective Date:

WHEREAS, the Section 3 of the Village of Chevy Chase Code Section 6-302(e)(iii)(3) provides that if any wall or fence is to be placed within two (2) feet of any Village building restriction line or property line, the applicant must submit a boundary survey executed by a licensed Maryland surveyor within the past ten (10) years. The Building Inspector may waive this requirement in his or her discretion ; and

WHEREAS, the Village Council finds it appropriate and for the benefit of the public health, safety, and welfare of the Village to provide a grant program to cover a portion of the expense of the boundary survey; and

WHEREAS, this Resolution was considered in open session on the 14th day of December, 2022.

NOW, THEREFORE, BE IT:

RESOLVED, that the Village Council hereby establishes a Boundary Survey Grant Program, as detailed on the attached Program Summary; {see story in January 2023 newsletter for the program summary}and

RESOLVED, that this Resolution shall be effective immediately upon adoption and shall be filed by the Village Manager and kept available for public inspection.

SMALL WIRELESS TELECOMMUNICATIONS FACILITIES

(2022 Revisions)

AN ORDINANCE TO AMEND ARTICLE 5 TO CHAPTER 6 OF THE CODE OF ORDINANCES CONCERNING THE INSTALLATION AND OPERATION OF SMALL WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY TO CLARIFY PROVISIONS; ADD PERMIT APPLICATION REQUIREMENTS; ADD AND MODIFY STANDARDS FOR DEPLOYMENT; DISALLOW PRUNING OF TREES EXCEPT AS MINIMALLY REASONABLY NECESSARY; REQUIRE REPLACED POLES TO BE REMOVED WITHIN 180 DAYS; REDUCE THE ALLOWABLE EQUIPMENT SIZE FROM 28 TO 12 CUBIC FEET; REQUIRE ANNUAL CERTIFICATION CONCERNING FACILITIES IN USE; AND ADD PROCEDURES AND REQUIREMENTS FOR VARIANCE REQUESTS AND APPEALS.

WHEREAS, Maryland Code, Local Government Article, Section 5-202, as amended, grants to the legislative body of every incorporated municipality in Maryland general power to pass such ordinances not contrary to the Constitution of Maryland, or the public general law, as deemed necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality;

WHEREAS, United States Code, Title 47, Section 332, provides that a local

government may exercise control regarding the placement, construction, and modification of personal wireless service facilities, provided the local government does not unreasonably discriminate among providers of functionally equivalent services; and does not prohibit the provision of personal wireless services;

WHEREAS, United States Code, Title 47, Section 332, provides that a local government shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request; and any decision by a local government to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record;

WHEREAS, United States Code, Title 47, Section 1455, provides that a local government may deny a facility request for a modification of an existing wireless tower or base station if it substantially changes the physical dimensions of such tower or base station, including requests for the collocation, removal, or replacement of transmission equipment;

WHEREAS, Section 3 of the Village of Chevy Chase holds and maintains the streets and highways within its municipal boundaries in trust for the benefit, use, and convenience of the general public;

WHEREAS, Section 501 of the Charter of the Section 3 of the Village of Chevy Chase authorizes the Village Council to pass such ordinances as deemed necessary for such purposes as may reasonably be in the interest of or incidental to the needs and benefit of Section 3;

WHEREAS, after proper notice to the public, the Village Council introduced the following Ordinance in an open meeting conducted on the 14th day of December, 2022;

WHEREAS, upon consideration of the testimony and evidence presented at the public hearing, the Village Council finds that the ordinance as hereinafter set forth would assure the good government of the municipality, protect and preserve the municipality's rights, property, and privileges, preserve peace and good order, secure persons and property from danger and destruction, and protect the health, comfort and convenience of the citizens of Section 3.

* * *

CHAPTER 3 CODE VIOLATIONS

* * *

Section 3-302. Specific Municipal Infractions

Violations of the following Code provisions are punishable as municipal infractions with the listed penalty:

Section	Fine
---------	------

* * *

6-503 <u>6-504</u> (small wireless telecommunications facilities; permits required)	\$500
6-504 <u>6-505</u> (compliance with permit)	\$500
6-505 <u>6-506</u> (deployment in public rights-of-way)	\$500

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; *** Triple asterisk indicates material to remain

* * *

CHAPTER 6. LICENSES & PERMITS

* * *

Section 6-302. Permits Required; Permitting Process.

* * *

(d) Use of public right-of-way by telecommunications providers, utilities and other users:

* * *

(iii) Nothing in this ordinance shall be deemed to override other provisions of law concerning the operation of utilities or telecommunications or information services nor shall the ordinance apply when there is a need for emergency action to prevent property damage or personal injury. This ordinance shall not be construed to require a building permit in order to connect an individual home to an existing telecommunications or utility structure if no new construction or installation is required in or under the public land or right-of-way.

Cross Reference: Chapter 6, Article 5 (small wireless telecommunications facilities)

* * *

Section 6-311. Fees for Building and Demolition Permits and Various Applications

An applicant shall pay to the Village the following fees upon submission of an application for a permit or variance:

* * *

(k) Basic application fee for use of the public right-of-way by telecommunications providers, utilities and other users (Section 6-302 (d)) \$2,000

(l) Additional application fees for telecommunications utilities:

- (i) Installation of poles, per pole \$500
- (ii) Overhead wires, per linear foot \$2.00
- (iii) Underground wires—street or sidewalk cuts, concrete or asphalt, per linear foot \$3.50
- (iv) Grass, per linear foot \$2.00

(v) Small wireless telecommunications facilities—see Chapter 6, Article 5, and the right-of-way access agreement adopted by the Village Council from time to time.

* * *

ARTICLE 5. SMALL WIRELESS TELECOMMUNICATIONS FACILITIES

6-501 Intent and Purpose

6-502 Definitions

6-503 Only Small Wireless Facilities Permitted

~~6-5036-504~~ Permit and Access Agreement Required

~~6-5046-505~~ Permit Application Requirements

~~6-5056-506~~ Standards for Deployment in the Public Right-of-Way

6-507 Variances

6-508 Appeals to the Village Council

Section 6-501. Intent and Purpose.

It is the intent of the Village Council to promote the Village's public health, safety, and general welfare by providing regulatory requirements for the installation, operation, and maintenance of small wireless telecommunications facilities in the public rights-of-way. The purpose of this Article is to regulate the same to enhance vehicular and pedestrian safety and avoid interference with motorist and pedestrian sightlines; to minimize damage to trees; to reduce visual clutter and prevent unsightly or out-of-character deployments; to preserve the value of property and the character of the neighborhood; to encourage collocation of small wireless facilities on existing structures within the right-of-way, instead of the installation of new structures; and to otherwise protect the health, safety, and general welfare of the Village and its residents, and the public at large..

Section 6-502. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

(a) "Base Station" means a structure or equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term does not include a **Pole**, Tower, or **Support Structure**, or any equipment associated with a **Pole**, Tower, or **Support Structure**.

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; ***Triple asterisk indicates material unchanged

(b) “Collocate” means to install or mount a Small Wireless Facility in the public right-of-way on an existing Support Structure, an existing Tower, or on an existing Pole to which a Small Wireless Facility is attached at the time of the application. “Collocation” has a corresponding meaning.

(c) “Communications Facility” means, collectively, the equipment at a fixed location or locations within the public right-of-way that enables communications services, including: (d) radio transceivers, antennas, coaxial, fiber-optic or other cabling, power supply (including backup battery), and comparable equipment, regardless of technological configuration; and (ii) all other equipment associated with any of the foregoing. The term does not include the Pole, Tower, or Support Structure to which the equipment is attached.

~~(e)~~ **(d)** “Pole” means a legally constructed pole, such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal or other material, located or to be located within a public right-of-way. The term does not include a Tower or Support Structure.

~~(f)~~ **(e)** “Small Wireless Facility” means a Wireless Facility that meets all of the following conditions:

(i) The structure on which antenna facilities are mounted (i) is fifty (50) feet or less in height, including existing antennas, or (ii) is no more than ten (10) percent taller than other adjacent structures, or (iii) is not extended to a height of more than fifty (50) feet or by more than ten (10) percent above its preexisting height, whichever is greater; and

(ii) Each antenna associated with the deployment, excluding the associated equipment **but including**

any enclosure containing an antenna, is no more than three (3) cubic feet in volume; and

(iii) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than ~~twenty-eight (28)~~ **twelve (12)** cubic feet in volume; and

(iv) The facility does not require antenna structure registration under Federal law; and

(v) The facility does not result in human exposure to radiofrequency radiation in excess of applicable safety standards under Federal law.

~~(g)~~ **(f)** “Support Structure” means a structure in a public right-of-way **other than a Tower, including a Pole, or a Tower** to which a Wireless Facility is attached ~~at the time of the Application~~ **or proposed to be attached.**

~~(h)~~ **(g)** “Tower” means any structure in a public right-of-way, within or outside the boundaries of the Village, built for the sole or primary purpose of supporting a Wireless Facility. A Tower does not include a Pole or a Support Structure.

~~(i)~~ **(h)** “Wireless Facility” means the equipment at a fixed location or locations in the public right-of-way that enables wireless telecommunications services. A Small Wireless Facility is a type of a Wireless Facility. The term does not include the Pole, Tower, or Support Structure on, under, or within which the equipment is located or collocated, or the coaxial, fiber-optic, or other cabling between Communications Facilities or Poles, or that is otherwise

not immediately adjacent to or directly associated with a particular antenna. **As used in this chapter, “Wireless Facility” and “Communications Facility” are synonymous.**

~~(j)~~ **(i)** “Wireless Service Provider” means a person who provides wireless services. “Wireless Services” means any wireless services using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided to the public.

Section 6-503. Only Small Wireless Facilities Permitted.

Unless otherwise required by law, no Wireless Facility other than a Small Wireless Facility may be installed or operated in the public rights-of-way.

Section 6-503-504. Permit and Access Agreement Required.

(a) No person shall construct, install, maintain, or perform any work in the public right-of-way related to a Communications Facility, **Support Structure**, or any Tower, without first receiving a permit **from the Village** and paying any applicable fee, as required under this Article. No permit shall be issued until the applicant has entered into a Right-of-Way Access Agreement in a form approved by the Village, according to this Article. A permit shall not be required for ordinary repairs or maintenance, as determined by the Village. **A permit application shall be filed with the Village no later than seven (7) calendar days after a siting, modification, permit, or other application has been filed with Montgomery County, Maryland, for the same work.**

(b) The Right-of-Way Access Agreement shall set forth, at a minimum, the following: (i) the maximum term of the agreement and the bases for

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; ***Triple asterisk indicates material unchanged

termination; (ii) the scope of the authority; (iii) the operator's maintenance obligations; (iv) the operator's indemnification and insurance requirements; (v) emergency contacts and required response to emergencies related to facilities; and (iv) the Village's right to access and inspect the operator's books and records and facilities located in the right-of-way.

(c) A Right-of-Way Access Agreement may be terminated by the Village as set forth in the Access Agreement, or, in the event this chapter is amended or replaced and the Village determines, consistent with applicable law, that termination is necessary. In such event, a new permit and Right-of-Way Access Agreement shall be required according to the requirements of the amended or replaced chapter

Section ~~6-5046-505~~. Permit Application Requirements.

(a) An application for a permit under this Article must contain or be submitted with the following:

- (i) The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the Applicant;
- (ii) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (iii) A description of the proposed work and the purposes and intent of the proposed facility sufficient to demonstrate compliance with the provisions of this Article;
- (iv) If applicable, a copy of the authorization for use of the property from the Pole, Tower, or Support Structure owner on or in which the Communications

Facility will be placed or attached;

(v) Detailed construction drawings regarding the proposed facility;

(vi) A representation as to whether the applicant contends that the application is an eligible facilities request within the meaning of 47 CFR Section 1.6100(b)(3), as amended or replaced, and, if so, drawings and an engineer's certification establishing the accuracy of that contention.

~~(vi)~~ (vii) A structural report performed by a duly licensed engineer evidencing that the Pole, Tower or Support Structure can adequately support the Collocation (or that the Pole, Tower, or Support Structure will be modified to meet structural requirements) in accordance with applicable codes;

(viii) A detailed deployment plan describing all communications facilities, poles, towers, or support structures planned to be used or installed by the applicant for twenty-four (24) months following the permit application anywhere in the Village, and a description of any completed deployments within the Village.

~~(vii)-(ix)~~ A certification by a radiofrequency engineer that the Communications Facility will comply with the radiofrequency radiation emission standards adopted by the Federal Communications Commission; and

~~(viii)-(x)~~ The applicable application fee, bond, Right-of-Way Access Agreement, and right-of-way access fee, as may be adopted and amended by resolution of the Village Council.

(b) The Village may require the posting of a bond to guarantee the prompt and

proper restoration of the public right-of-way. The bond may be in such amount as the Permit Services Coordinator deems necessary, ~~in~~ at the Permit Services Coordinator's discretion to allow the prompt and proper restoration of the public right-of-way.

(c) In exchange for the privilege of non-exclusive use of the public right-of-way, the applicant shall pay the Village such access fee as may be established and amended by the Village Council by resolution from time to time.

(d) Any permit issued under this Article shall be valid for a period of twelve (12) months after issuance, and may be extended by the Permit Services Coordinator for up to an additional twelve (12) months upon written request of the applicant, prior to permit expiration, if the failure to complete construction is as a result of circumstances beyond the reasonable control of the applicant.

(e) No work may be performed except in strict accordance with applicable law and the Village permit and all approved plans and specifications.

(f) No permit shall be issued except to a Wireless Service Provider with immediate plans for use of the subject Communications Facility. A permit issued under this Article may not be assigned or transferred.

Section ~~6-5056-506~~. Standards for Deployment in the Public Right-of-Way.

(a) No Interference with Right-of-Way. No person shall locate or maintain a Communications Facility, Pole, Support Structure, including guy wires, or any Tower, so as to interfere with the use of the public right-of-way by the Village, the general public, or other persons authorized to use or be present in or upon the public right-of-way, or otherwise hinder the ability of the Village to improve, modify, relocate, abandon or

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; ***Triple asterisk indicates material unchanged

vacate a public right-of-way or any portion thereof. Unless otherwise approved by the Village, any Communications Facility must not confront a driveway apron and must be located no closer than five (5) feet from any adjacent driveway apron, and be otherwise located to avoid interference with pedestrian and motorist sightlines and use.

(b) Compliance with Design Standards; Unsightly or Out-of-Character Deployments; **Noise Abatement.** Unless otherwise approved by the Village, **as required by applicable law** ~~in order~~ to prevent an effective prohibition of service, ~~in violation of applicable law~~, no person shall locate or maintain a Communications Facility, Pole, or any Tower except in accordance with the following design standards:

(i) All Communications Facilities shall be located and designed so as to minimize visual impact on surrounding properties and from public rights-of-way, and so as to not interfere with motorist and pedestrian sightlines, especially at intersections.

(ii) All radio transceivers, antennas, power supply (including backup battery), and comparable equipment installed on a Tower, Pole, or other Support Structure shall be installed at a height of at least fifteen (15) feet above ground level.

(iii) No **Wireless Facility or Tower in the right-of-way** Tower may be located closer than **five hundred (500)** ~~one thousand (1,000)~~ feet of another Tower or **Wireless Facility in the right-of-way.**

(iv) No more than ~~five~~ **three (3)** antennas may be located on any single Tower, Pole, or Support Structure.

(v) All coaxial, fiber-optic, or other cabling and wires shall be con-

tained inside the Tower, Pole, or other Support Structure or shall be flush-mounted and covered with a metal, plastic or similar material matching the color of the Tower, Pole, or other Support Structure on which it is installed.

(vi) Unless otherwise approved by the Village, as required by law to prevent an effective prohibition of service, Communications Facilities shall be Collocated. A Tower or other Support Structure shall be constructed in a manner that allows Collocation.

(vii) All Communications Facilities shall be constructed in a manner to allow the public rights-of-way to be maintained in compliance with the Americans with Disabilities Act, as amended or replaced.

(viii) Fans or other elements of a Communication Facility that emit noise shall be accompanied by noise abatement measures as are appropriate to prevent noise disturbances.

~~(vi)~~ **(ix) All Communications Facilities shall comply with such additional design standards as may be set forth in administrative regulations issued by the Village.**

(c) Protection of Trees. Unless otherwise approved by the Village ~~as required by applicable law in order to prevent an effective prohibition of service, in violation of applicable law~~, no person shall locate or maintain a Communications Facility, Pole, Support Structure, or any Tower, so as to interfere with the health of a tree. **Trees may not be pruned to accommodate a Communications Facility, Pole, Tower, or Support Structure, except as minimally reasonably necessary.**

(d) Location Underground. [Reserved].

~~(e) Modification of Wireless Facilities~~ **Eligible facilities requests.** The Village shall approve any request for a modification of an eligible existing Tower or base station that does not substantially change the physical dimensions of such Tower or base station, in accordance with Federal law. **Any such approval, whether through affirmative action by the Village or by operations of law, shall be subject to the conditions that (i) the proposed modification as built does in fact qualify as an eligible facilities request under 47 CFR Section 1.6100(b)(3), and (ii) the facility as modified complies with all applicable provisions of this chapter.**

(f) Restoration of Public Right-of-Way. The applicant shall restore, repair, and/or replace any portion of the public right-of-way that is damaged or disturbed by the applicant's work, to the satisfaction of the Village. Such restoration work shall be completed no later than thirty (30) days following completion of the project, or termination of the Right-of-Way Access Agreement, and shall be warranted by the applicant for a period of one (1) year to be free from defects in materials and workmanship. **In the case of Pole replacement, the original Pole shall be removed by the owner of the Pole no later than one hundred eighty (180) days following the installation of the new Pole.**

(g) Removal, Relocation, and Abandonment. Within thirty (30) days following written notice from the Village, or such other time as the Village may **reasonably** require, the Village may ~~require terminate a right-of-way access agreement or require other action in connection therewith, and the owner shall~~, at its own cost and expense, **to** protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of **all or any part** of its Communications Facilities, Poles, Support Structures or Towers within the public right-of-way, and restore the right-of-way as required by the Village, whenever either: (i) ~~the~~

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; ***Triple asterisk indicates material unchanged

terms of the Right-of-Way Access Agreement have been ~~terminated~~ terminated as provided in the right-of-way access agreement or this Article; (ii) the Communications Facility has not been used for a period of ninety (90) days, or has otherwise been abandoned or not maintained, or (iii) the Village has ~~reasonably~~ reasonably determined ~~in its sole discretion~~ that such action is necessary for the construction, installation, repair, or maintenance of any public improvement or otherwise necessary for the public health, safety, or welfare. If the owner fails to take action as required by this section, the Village or its contractor may do so and the owner shall be responsible for all costs and expenses incurred by the Village related to such work.

(h) Annual Certification. Each year on July 1, a Wireless Provider shall submit an affidavit to the Village that shall list, by location, all Small Wireless Facilities it owns within the Village, and shall certify: (1) each such installation remains in use; (2) such in-use facility remains covered by required insurance; and (3) each such installation which is no longer in use.

Section 6-507. Variances

(a) Power to grant. The Village Council may grant variances from the requirements of this chapter, upon proof by a preponderance of the evidence that strict compliance would effectively prohibit the provision of service, and the variance is the minimum reasonably necessary to overcome the aforesaid prohibition and allow service.

(b) Procedures.

(i) An applicant shall submit a

written request for a variance to the Permit Services Coordinator on the form, if any, provided by the Village. The applicant shall also submit drawings, surveys and other information sufficient to inform the Council as to the locations and dimensions of all structures existing and proposed to be erected, and the distances of the structures from the nearest public right-of-way lines.

(ii) Upon receipt of a request for a variance, and at least ten (10) calendar days prior to the public hearing, the Village shall provide written notification to all adjoining and confronting property owners and to all Council members, provided, however, that this posting requirement may be altered in order to comply with applicable Federal time limits. The Council shall consider the variance request at an open meeting. In granting a variance, the Council may require conditions which will, in its judgment, secure the objectives of this Code and protect the public interest.

(c) Any variance granted shall be in writing. A permit for the construction authorized by a variance shall be obtained from the Village within twelve (12) months of the date of the Council's decision granting the variance or the variance shall be void, unless an extension is granted in writing by the Permit Services Coordinator. If the Village is required to enforce the decision, the applicant, and the applicant's successors and assigns shall be responsible for all the Village's costs to enforce, including reasonable attorneys' fees.

Section 6-508. Appeals to the Village

Council

(a) If the Permit Services Coordinator denies an application for a permit, the applicant has thirty (30) days from the date of the denial in which to appeal the denial. Written notice of an intent to appeal shall be delivered to the Permit Services Coordinator. At least ten (10) calendar days prior to the public hearing, the Village shall provide written notification to all adjoining and confronting property owners and to all council members, provided, however, that this posting requirement may be altered in order to comply with applicable Federal time limits.

(b) An appeal shall be heard and decided by the Council de novo based upon a presentation by the Permit Services Coordinator and any evidence presented by the applicant and any other residents or property owners who appear in support or in opposition. The Chair of the Council shall preside at the appeal. All members of the Council who have heard the evidence, shall vote on the appeal. The Council may vote to grant the permit (with or without conditions) or deny the permit.

* * *

Bold underline indicates new material, ~~Strikethrough~~ indicates material deleted; ***Triple asterisk indicates material unchanged

Looking back at 2022



EVERYBODY'S IRISH, MARCH
EASTER BUNNY



**WELCOME
NEW
NEIGHBORS
BBQ, JULY**



**CAKEWALK @
PARTY IN THE
PARK,
SEPTEMBER**



SPRING LAKE 2022



**SECTION 3
ELECTION
MAY**



**HALLOWEEN
PARADE IN RAIN**

**CHARITY DONATIONS,
NOVEMBER**



**TODDLER
MUSIC
CLASS IN
PARK**



**COPPERFIELD
DAVIS, OUR
FAVORITE ICE
CREAM MAN**



McKENNEY ROUNDS OUT 13 YEARS WELCOMING NEW NEIGHBORS

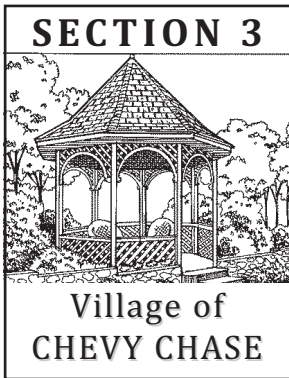
After 13 years of welcoming many Section 3 neighbors, **Ellen McKenney** has decided it's time to hand the baton off to another Section 3 resident. Her warm welcomes with wine and flowers have marked the entry into this community for many of you. Ellen has answered questions, provided copies of our directory and really created a special feeling for all those lucky enough to meet her in this important role. Others may have met her as she helped with name tags at the Party-in-the Park.

We are so grateful to Ellen for taking time as a volunteer to set the tone for new neighbors in a way that is unique to Section 3.

Taking over for Ellen is **Katey Vale** who has already welcomed three new families.



SECTION 3 VILLAGE OF CHEVY CHASE
P.O. Box 15070
Chevy Chase, MD 20815



News & Views

JANUARY 2023



If the forecast calls for snow, we ask all residents to put their cars in their driveways, off the street.

Last time it snowed, parked cars prevented several blocks from being plowed because the truck could not get into the street.

Please remember to shovel your front walkways or clear them of ice so your neighbors don't slip and fall.