

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

<b>Address:</b>	20 West Lenox Street, Chevy Chase	<b>Meeting Date:</b>	3/26/2025
<b>Resource:</b>	Contributing Resource Chevy Chase Village Historic District	<b>Report Date:</b>	3/19/2024
<b>Applicant:</b>	Scott Freedman, Agent	<b>Public Notice:</b>	3/12/2024
<b>Review:</b>	Historic Area Work Permit	<b>Tax Credit:</b>	n/a
<b>Case Number:</b>	1095563 CONTINUED	<b>Staff:</b>	Dan Bruechert
<b>Proposal:</b>	Hardscape Alterations, Installation of In-Ground Pool, and New Fence		

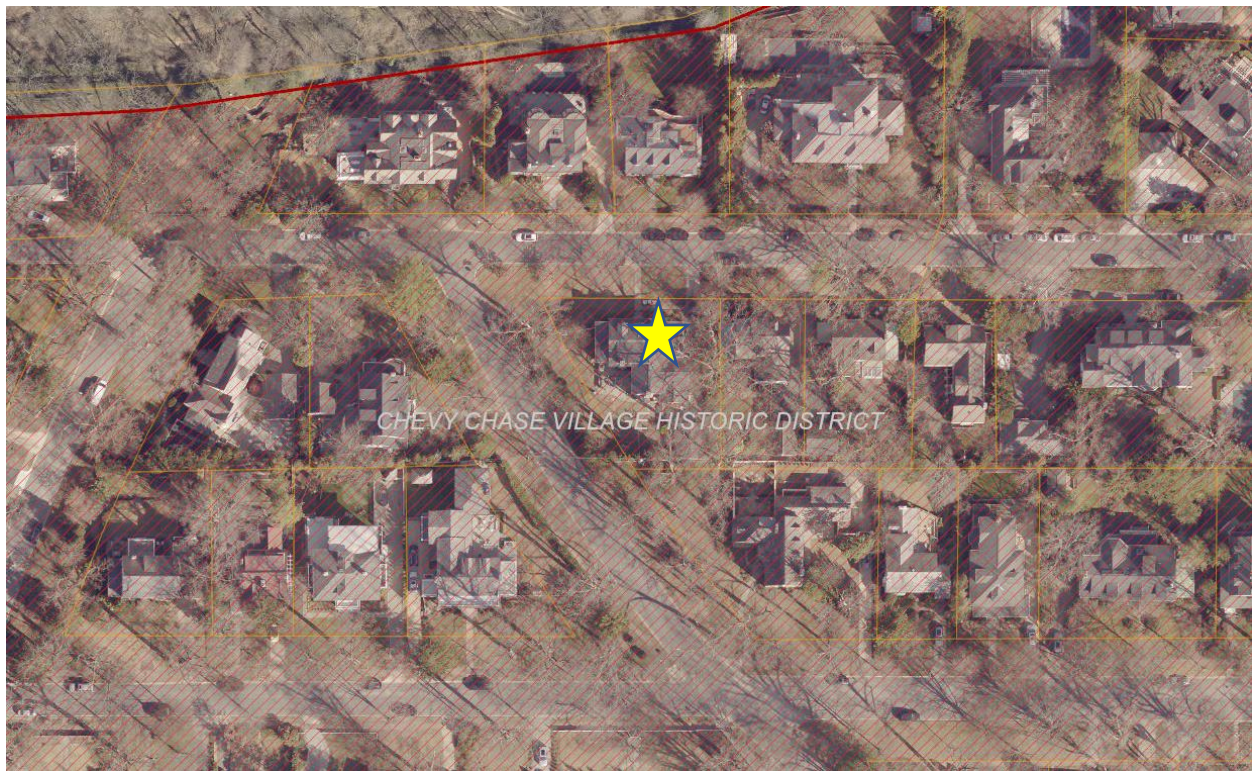
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**STAFF RECOMMENDATION**

Staff recommends that the HPC **approve** the HAWP application.

**ARCHITECTURAL DESCRIPTION:**

**SIGNIFICANCE:** Contributing Resource within the Chevy Chase Village Historic District  
**STYLE:** Colonial Revival  
**DATE:** 1924



*Figure 1: The subject property is at the corner of W. Lenox St. and Magnolia Pkwy.*

## **BACKGROUND**

On January 8, 2025, the HPC held a hearing for the HAWP at 20 W. Lenox St., Chevy Chase to install a pool, associated patio and mechanical systems, remove the existing fence, and install a new fence. Several issues were raised during the hearing regarding the authorization to install the fence in the Village right-of-way and on the potential impact on significant trees on the site. The HPC requested additional information from the applicant on these topics. The applicant has provided the information (attached to the application materials) and seeks approval for the HAWP.

## **PROPOSAL**

The applicant proposes to install an inground swimming pool and associated mechanical systems, a new patio with a grill, and new fencing.

## **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 Guidelines***

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

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

**“Moderate Scrutiny”** involves a higher standard of review than “lenient scrutiny.” Besides issues of massing, scale and compatibility, preserving the integrity of the resource is taken into account. Alterations should be designed so that the altered structure still contributes to the district. Use of compatible new materials, rather than the original building materials, should be permitted. Planned changes should be compatible with the structure’s existing design, but should not be required to replicate its architectural style.

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

*Fences* should be subject to strict scrutiny if they detract significantly from an existing open streetscape. Otherwise, fences should be subject to moderate scrutiny if they are visible from the public-right-of-way, lenient scrutiny if they are not.

*Lot Coverage* should be subject to strict scrutiny in view of the critical importance of preserving the Village’s open park-like character.

*Swimming Pools* should be subject to lenient scrutiny. However, tree removal should be subject to strict scrutiny as noted below.

- The *Guidelines* state five basic policies that should be adhered to, including:
  - Preserving the integrity of the Chevy Chase Village Historic District. Any alterations should, at a minimum, perpetuate the ability to perceive the sense of time and place portrayed by the district.
  - Preserving the integrity of contributing structures. Alterations should be designed in such a way that the altered structure still contributes to the district.
  - Maintaining the variety of architectural styles and the tradition of architectural excellence.
  - Design review emphasis should be restricted to changes that will be visible from the front or side public right-of-way, or that would be visible in the absence of vegetation or landscaping.
  - Alterations to the portion of a property that are not visible from the public-right-of-way should be subject to a very lenient review. Most changes to the rear of the properties should be approved as a matter of course.

***Montgomery County Code; Chapter 24A-8***

- (a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.
- (b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:
  - (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
  - (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
- (d) In the case of an application for work on an historic resource located within an 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 of 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.

#9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

#10: New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**STAFF DISCUSSION**

The subject property is a two-story clapboard sided side-gable Colonial Revival house located at the corner of West Lenox Street and Magnolia Parkway. A 3' (three foot tall) painted wood picket fence

surrounds the side and rear yards. There have been two prior HAWP applications at this address: one for the removal of a large tree and one for construction of a rear and side addition with alterations to the garage and hardscape (only the prelim staff reports are available for the latter).<sup>1</sup> The applicant proposes to install a swimming pool with associated mechanical systems and hardscape, expand the existing patio, and install a new fence on the property.

At the January 8, 2025 hearing, the HPC requested documentation showing the applicant had approval to install the fence in the Village-designated right-of-way and for a finding by the Chevy Chase Village arborist that the proposal would not impact any trees. Both of those documents have been provided.

### **Swimming Pool**

Directly behind the house, the applicant proposes to install a rectangular in-ground swimming pool and a raised, square, hot tub. No trees will be impacted by the installation of the pool. Directly to the south of the pool, the applicant proposes to install a 5' (five foot tall) freestanding stone wall to separate the pool area from the pool equipment, HVAC mechanicals, and generator. A wooden timber retaining wall, no taller than 18" (eighteen inches) will support the mechanical pad.

Staff finds under a lenient scrutiny review, the proposed pool will not impact the size or mass of the resource and will not have an impact on the surrounding streetscape. Additionally, no trees will be impacted by this work because there are none in the location proposed for the pool, as called out for evaluation in the *Design Guidelines*. Staff further finds the proposed free-standing wall is approximately 12' (twelve feet) off of the property line near the southeast corner of the lot, adjacent to the existing garage, in a location that will not disrupt the character of the streetscape. Staff finds the mechanical systems for the pool, HVAC, and emergency generator will not have a significant impact on the character of the lot and surrounding district. Staff recommends the HPC approve the pool, wall, and mechanicals under 24A-8(b)(2) and (d), the *Design Guidelines*, and *Standard #2 and 10*.

### **Patio Construction**

To the southwest corner of the house, there is a large flagstone patio. The applicant proposes to remove the existing patio and install a larger patio and pave the area around the pool with porcelain tile. No trees are located adjacent to the patio area.

The supplemental information provided by the applicant shows that the proposed patio is approximately 26' × 46' (twenty-six feet wide by forty-six feet deep) and does not encroach beyond the building restriction line. Staff finds that the proposed patio will not overwhelm the character of this very large side and rear yard. All of the patio is to the east of the west wall plane and, as this will be installed on grade, will not substantially change the visual character of the site and surrounding district. Staff recommends the HPC approve the patio under 24A-8(b)(2) and (d) and *Standard #2*.

### **Fence Installation**

Finally, the applicant proposes to remove the existing painted wood picket fence (between three and four feet tall), located in the same location as the existing fence which falls partially within the right of way of Magnolia Parkway, and install a 5' (five foot tall) cedar picket fence with cedar posts and caps. Large posts will be pressure treated wood and wrapped in cedar. The wood will be left unfinished. The applicant provided a Decision of the Board of Managers granting the special permit to install the fence within the right-of-way.

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<sup>1</sup> See the staff reports here:

[https://mcatlas.org/tiles/06\\_HistoricPreservation\\_PhotoArchives/Padlock/HAR60640002/Box009/35-13-96B\\_Chevy%20Chase%20Village%20Historic%20District\\_20%20West%20Lenox%20Street\\_06-02-1996.pdf](https://mcatlas.org/tiles/06_HistoricPreservation_PhotoArchives/Padlock/HAR60640002/Box009/35-13-96B_Chevy%20Chase%20Village%20Historic%20District_20%20West%20Lenox%20Street_06-02-1996.pdf) and [https://mcatlas.org/tiles/06\\_HistoricPreservation\\_PhotoArchives/HAWP/HAWP\\_Archive/UNKNOWN\\_CHEVY%20CHASE%20VILLAGE%20HISTORIC%20DISTRICT\\_20%20WEST%20LENOX%20STREET,%20CHEVY%20CHASE\\_04062011.PDF](https://mcatlas.org/tiles/06_HistoricPreservation_PhotoArchives/HAWP/HAWP_Archive/UNKNOWN_CHEVY%20CHASE%20VILLAGE%20HISTORIC%20DISTRICT_20%20WEST%20LENOX%20STREET,%20CHEVY%20CHASE_04062011.PDF)

Staff was initially opposed to the fence location and original solid board appearance, finding it would detract from the historic district's open, park-like setting. At the hearing the applicant provided several examples of fences along Magnolia Parkway and in the northwest corner of the historic district. Fences forward of the rear wall plane or along public rights-of-way in the Chevy Chase Village Historic District are usually limited to 48" (forty-eight inches) in height and are required to have an open picket design. (Several properties along Brookeville Rd. have been granted taller, solid board fences due to its high traffic.)

At the January 8, 2025 hearing, a majority of the commissioners in attendance voiced their support for a 5' (five foot tall) wood fence with an open picket design in the location of the existing fence provided two conditions were satisfied: 1) that the fence could legally be placed in that location and 2) that the proposal be reviewed by the Village arborist with a finding that the proposal would not negatively impact any trees on the site. The applicant submitted documents satisfying both of those conditions.

As Staff pointed out in the January 8, 2025 Staff Report, corner properties are generally held to a more rigorous standards than interior lots, because their frontage helps to foster the district's open, park-like setting; one of the five basic policies that should be adhered to in the *Guidelines*. While Staff believes the general 48" (forty-eight inch) fence height maximum better preserves this character, Staff does find the revised open picket design does help make the fence appear more transparent than the original solid board design. Additionally, by leaving the wood untreated, the fence will weather over time and better blend in with the adjacent plantings.

Staff recommends the HPC approval of the fence under 24A-8(b)(2) and (d), the *Design Guidelines*, and *Standard #2, 9, and 10* with the proposed conditions to modify the fence.

### **STAFF RECOMMENDATION**

Staff recommends that the Commission **approve** the HAWP application; under the Criteria for Issuance in Chapter 24A-8(b)(2) and (d), and the *Chevy Chase Village Historic District Guidelines*, having found that the proposal will not substantially alter the exterior features of the historic resource and is compatible in character with the district and the purposes of Chapter 24A;

and with the *Secretary of the Interior's Standards for Rehabilitation #2, 9 and 10*;

and with the general condition that the applicant shall present an electronic set 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 final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff's discretion;

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. Once the work is completed the applicant will contact the staff person assigned to this application at 301-563-3400 or [dan.bruechert@montgomeryplanning.org](mailto:dan.bruechert@montgomeryplanning.org) to schedule a follow-up site visit.

**HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING**  
[Owner, Owner's Agent, Adjacent and Confronting Property Owners]

<b>Owner's mailing address</b>	<b>Owner's Agent's mailing address</b>
<b>Adjacent and confronting Property Owners mailing addresses</b>	

**HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING**  
 [Owner, Owner's Agent, Adjacent and Confronting Property Owners]

**Owner's mailing address**  
 Dan and Kris Coughlan  
 20 W Lenox Street  
 Chevy Chase, MD 20815

**Owner's Agent's mailing address**  
 Scott Freedman  
 19301 New Hampshire Avenue  
 Brinklow, MD 20862

**Adjacent and confronting Property Owners mailing addresses**

Peter Wellington  
 or Current Resident  
 18 W Lenox Street  
 Chevy Chase, MD 20815

John Ryan  
 or Current Resident  
 33 W Lenox Street  
 Chevy Chase, MD 20815

Lenox Living Trust  
 or Current Resident  
 35 W Lenox Street  
 Chevy Chase, MD 20815

Peter Keisler  
 or Current Resident  
 20 Magnolia Pkwy.  
 Chevy Chase, MD 20815

Andrew Laurov  
 or Current Resident  
 25 W Kirke Street  
 Chevy Chase, MD 20815

Thomas Brown  
 or Current Resident  
 27 W Kirke Street  
 Chevy Chase, MD 20815

Description of Property: Please describe the building and surrounding environment. Include information on significant structures, landscape features, or other significant features of the property:

This corner lot contains a single family home and detached garage. In the rear yard, where the work is proposed, there is a flagstone patio and adjoining lawn space. The perimeter of the rear yard has a picket fence and is nicely landscaped with screen trees, and a mix of ornamental trees, shrubs, and perennials.

Description of Work Proposed: Please give an overview of the work to be undertaken:

We are proposing an inground swimming pool with adjoining raised hot tub. The patio will be rebuilt at grade level to connect to the pool and hot tub. The perimeter fence will be rebuilt in order to meet Montgomery County pool barrier code. The perimeter plantings will remain as is. The lawn area will be modified slightly to fit the proposed patio. A small outdoor kitchen with grill will be tied into the patio space. A screen wall separating the swimming pool from the pool equipment is also being proposed.



Work Item 1: Pool and Hot Tub

Description of Current Condition:

Flagstone Patio and Lawn space at existing grade.

Proposed Work:

Installation of an inground swimming pool at existing grade. The adjoining hot tub will be raised 18" and will be facade with Dove Gray natural stone that matches the chimney of the existing single family house.

Work Item 2: Fence

Description of Current Condition:

Pressure Treated White Picket fence at 48" height

Proposed Work:

Pressure Treated Single- Sided Privacy fence at 60" height.

Work Item 3: Outdoor Kitchen and Screen Wall

Description of Current Condition:

Flagstone Patio and Lawn space at existing grade.

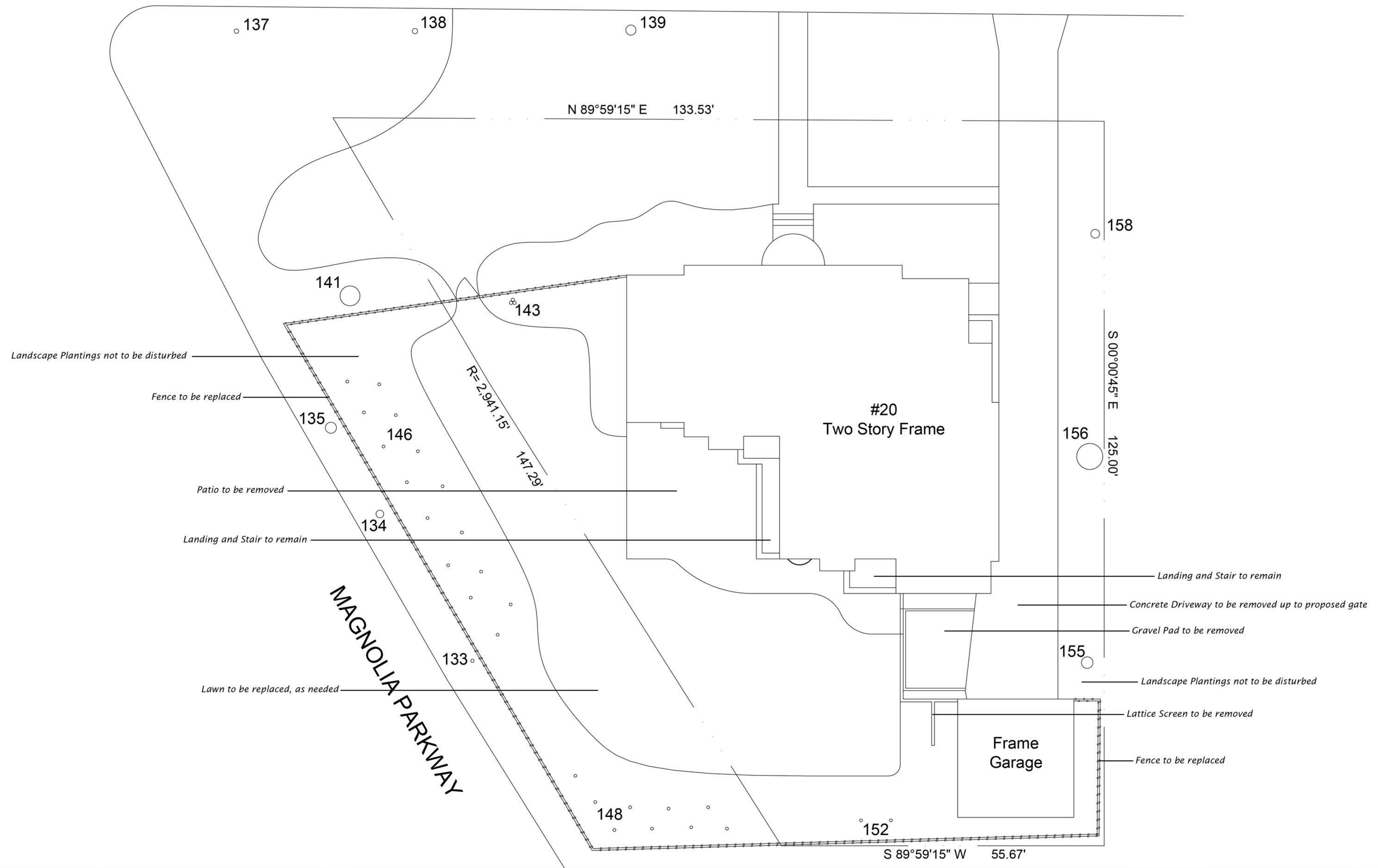
Proposed Work:

Installation of an outdoor kitchen at 42" height, and facade with Dove Gray natural stone that matches the chimney of the existing single family house.

Installation of a screen wall at 60" height. The front facing sides of the wall will be facade with Dove Gray natural stone that matches the chimney of the existing single family house. The rear facing sides of the wall will be finished with a stucco/ parge.

Tree ID	Common Name	Scientific Name	Condition Class	Quantity	Dbh 1	Dbh 2	Dbh 3	Prune	Pruning Category	Pruning Goal 1	Pruning Goal 2	Pruning Goal 3
133	Oak-Willow	Quercus phellos	Good	1	7	0	0	Yes	Developmental	Promote development of strong central stem	Develop branch structure	Clearance
134	Oak-Willow	Quercus phellos	Good	1	16	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce density	Clearance
135	Cherry-Black	Prunus serotina	Good	1	23	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce density	Clearance
137	Oak-White	Quercus alba	Good	1	9	0	0	Yes	Developmental	Promote development of strong central stem	Develop branch structure	Clearance
138	Beech-American	Fagus grandifolia	Good	1	11	0	0	Yes	Developmental	Promote development of strong central stem	Develop branch structure	Clearance
139	Maple-Red	Acer rubrum	Good	1	21	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce density	Clearance
141	Tuliptree	Liriodendron tulipifera	Good	1	41	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce spread of crown	Clearance
143	Crapemyrtle-Common	Lagerstroemia indica	Good	1	7	7	6	Yes	Maintenance	Improve form and shape	Reduce density	Clearance
146	Japanese Cryptomeria (15)	Cryptomeria japonica	Good	15	6	0	0	Yes	Maintenance	Maintain size and shape	Clearance	
148	Arborvitae-Green Giant (6)	Thuja standishii x plicata	Good	6	6			Yes	Maintenance	Maintain size and shape	Clearance	
152	Japanese Cryptomeria (2)	Cryptomeria japonica	Good	2	6	0	0	Yes	Maintenance	Maintain size and shape	Clearance	
155	Elm-American	Ulmus americana	Good	1	24	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce density	Clearance
156	Oak-White	Quercus alba	Good	1	54	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce spread of crown	Clearance
158	Maple-Red	Acer rubrum	Fair	1	18	0	0	Yes	Maintenance	Reduce risk of branch stem and/or root failure	Reduce density	Clearance

W. LENOX STREET



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 ph. 301.421.9600 • www.RollingAcresLandscaping.com

**Coughlan Residence**  
 20 West Lenox Street  
 Chevy Chase, MD 20815

PREPARED BY:

Scott A. Freedman R.L.A.

PLOT DATE:  
 December 18, 2024

REVISIONS:

No.	Description	Date

SCALE:  
  
 1/8" = 1'-0"

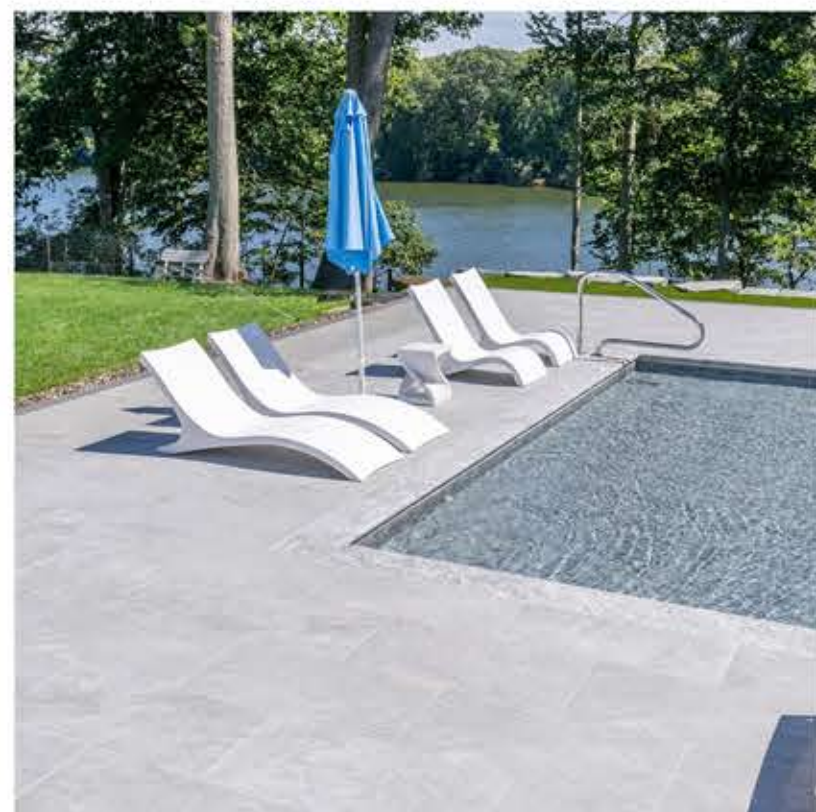
DRAWING TITLE:  
 Existing Site Plan



5' height Cedar Picket Fence w/ Cedar Posts and Caps (Pressure Treated Posts to be wrapped in Cedar). No staining or painting proposed. Gate pickets to be level to match fence pickets.



Dove Grey Natural Stone, as found on existing Chimney



Grey/ Tan Blend Porcelain Tile



W. LENOX STREET



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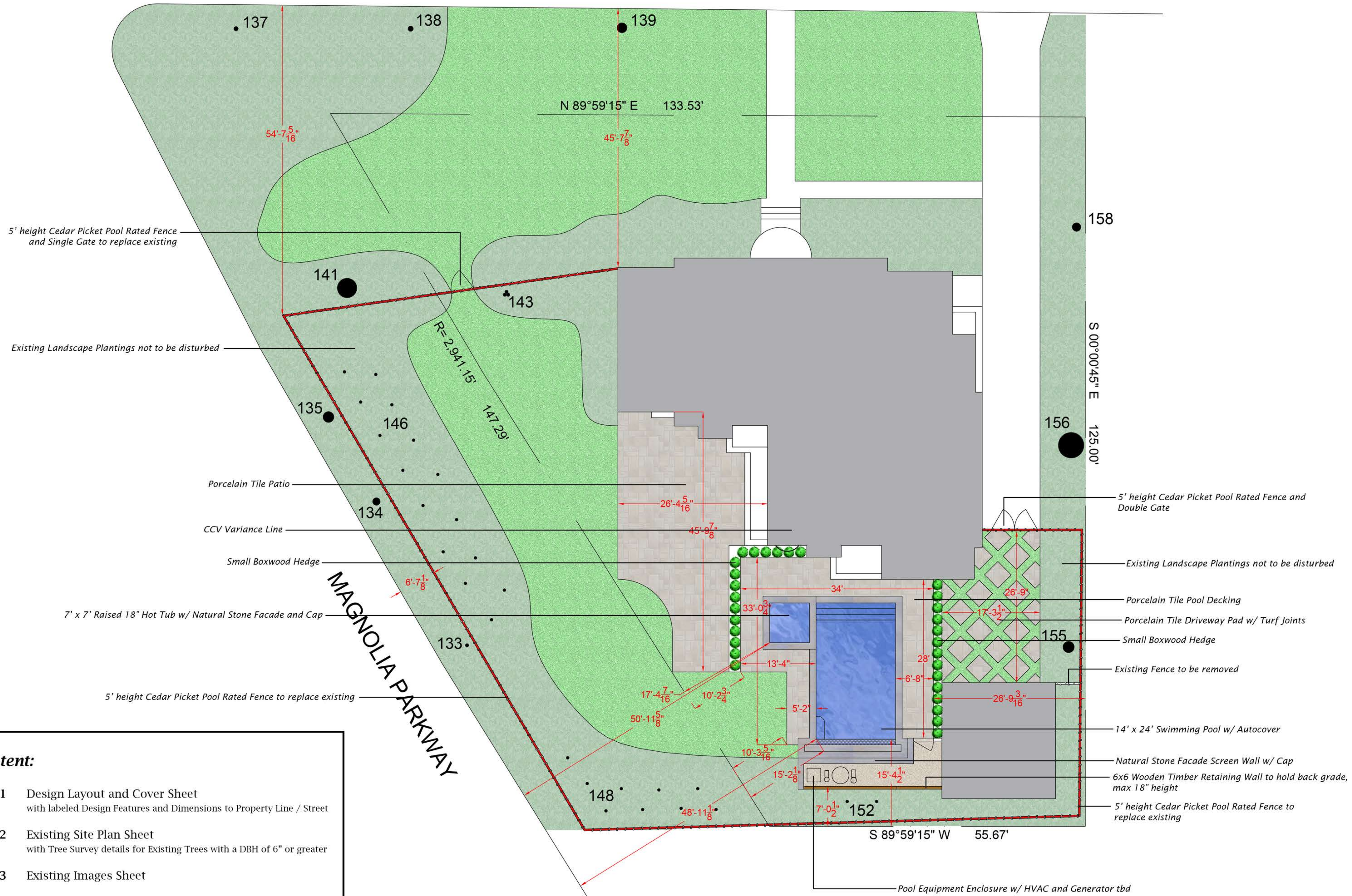
REVISIONS:

No.	Description	Date
1	February 25, 2025	

SCALE:  
 1/8" = 1'-0"

DRAWING TITLE:  
 Materials Plan

W. LENOX STREET



**Content:**

- Page 1** Design Layout and Cover Sheet with labeled Design Features and Dimensions to Property Line / Street
- Page 2** Existing Site Plan Sheet with Tree Survey details for Existing Trees with a DBH of 6" or greater
- Page 3** Existing Images Sheet
- Page 4** Materials Plan Sheet with Perspective of proposed design and Images of proposed materials

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1	February 25, 2025	

SCALE:  
  
 1/8" = 1'-0"

DRAWING TITLE:  
 Design Layout and Cover Sheet

Page 1 of 4



*View of the existing Patio and Rear of House/ Screened Porch*



*View of the existing Patio/ Walkway and Rear of House*



*View of the Detached Garage and Rear Screen Plantings*



*View of the Rear Screen Plantings*



*View of the Rear Screen Plantings*



*View of the Detached Garage*



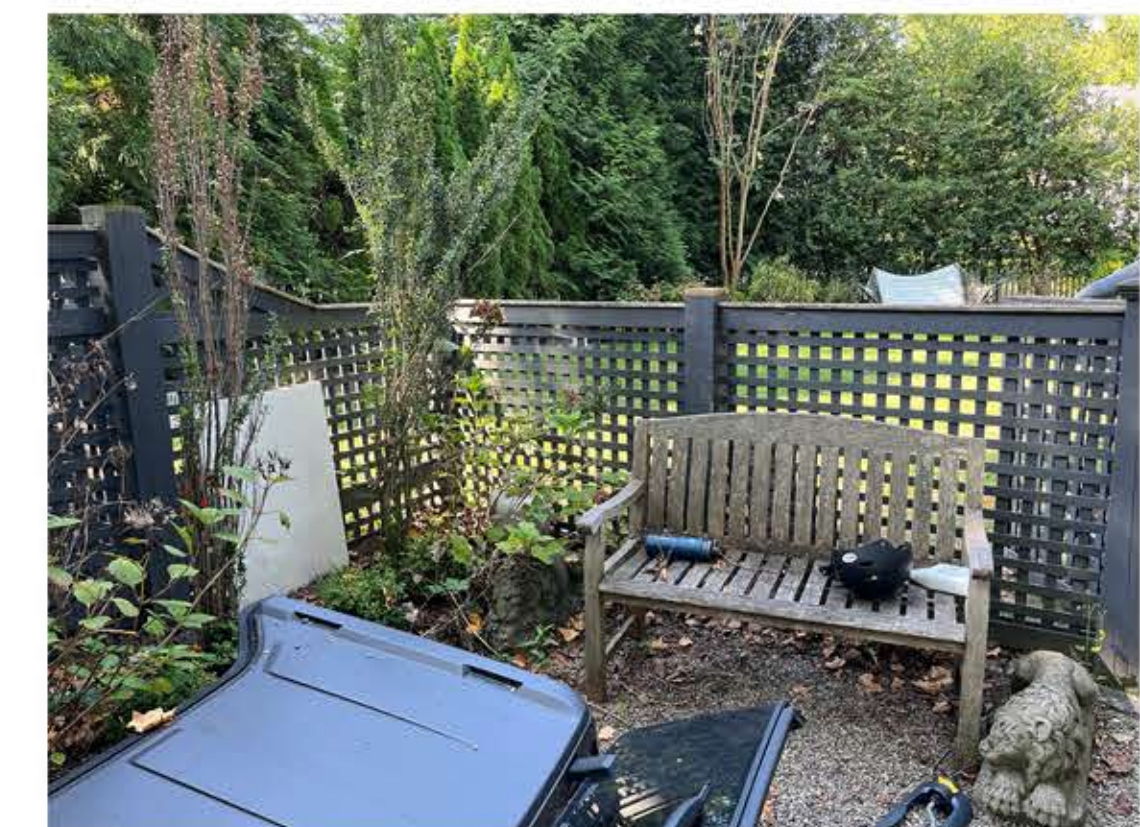
*View of the Rear of House. Proposed stone facade will match the chimney*



*View of the Rear/ Side Screen Plantings along Magnolia*



*View of the Detached Garage and Driveway*



*View into the Rear Yard from the Driveway*



*View of the Fence and Plantings separating Front and Rear Yards*



*View of the Fence and Plantings next to the Screened Porch*



*View of the side of the Screened Porch*



*View of the existing Patio and Rear Lawn/ Screen Plantings*



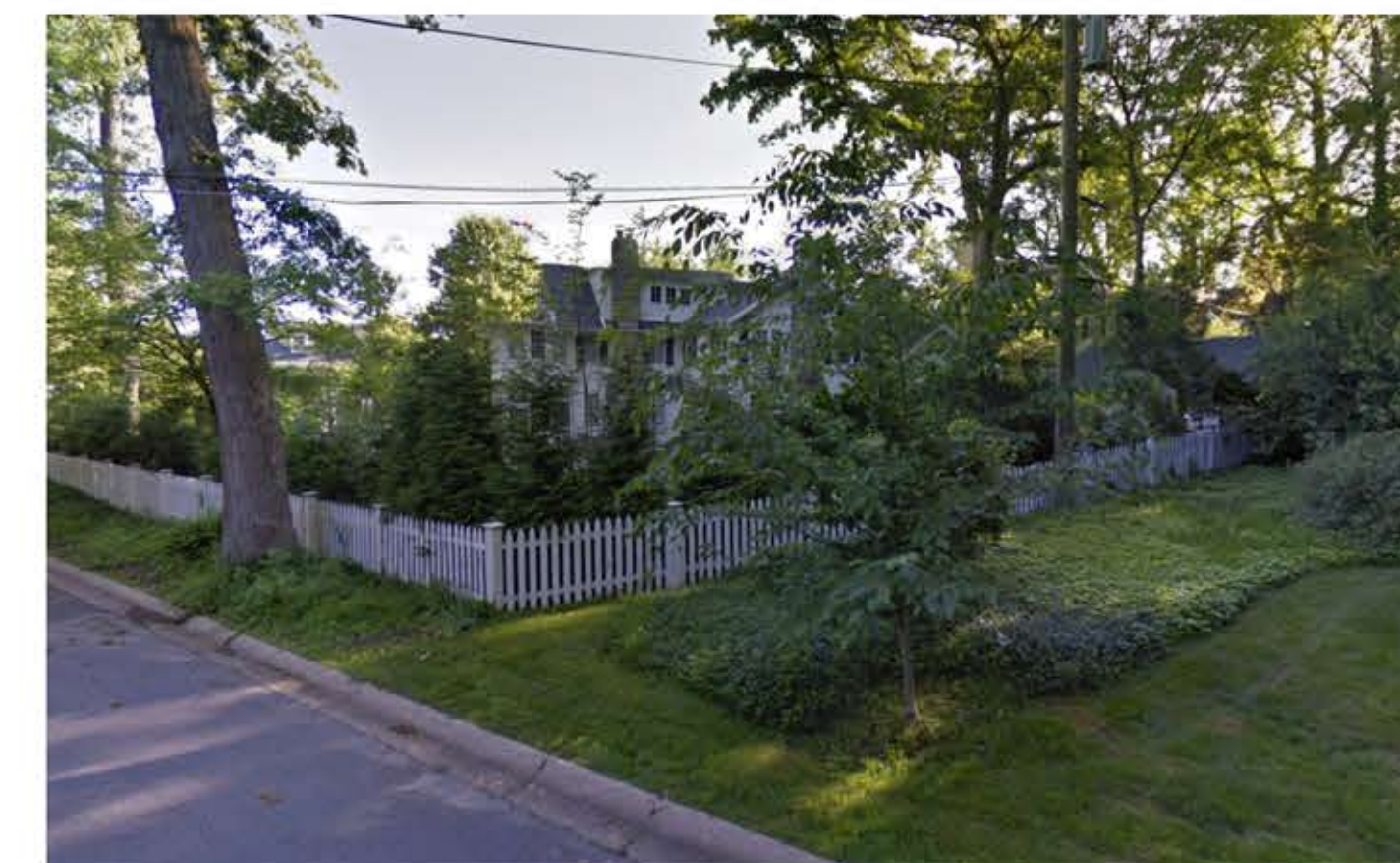
*View of the Rear/ Side Screen Plantings along Magnolia*



*View towards the Rear Yard from W Lenox*



*View towards the Rear Yard from Magnolia*



*View towards the Rear Yard from Magnolia*

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PREPARED BY:



*Scott A. Freedman*  
Scott Freedman R.L.A.

PLOT DATE:

December 18, 2024

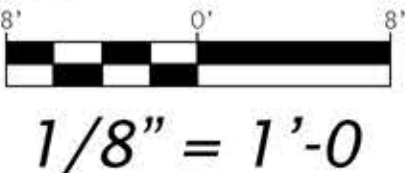
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No. Description Date

No.	Description	Date



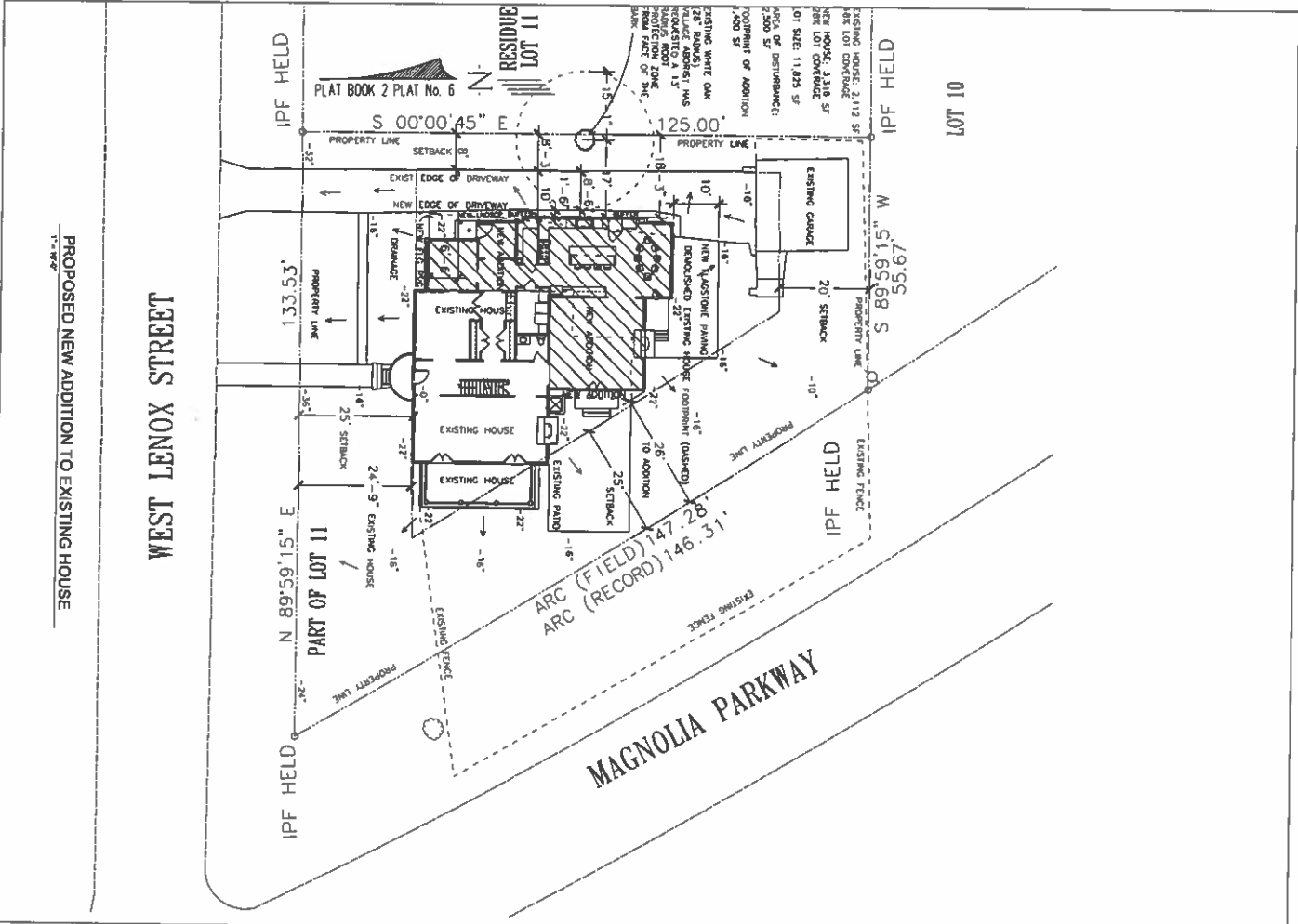
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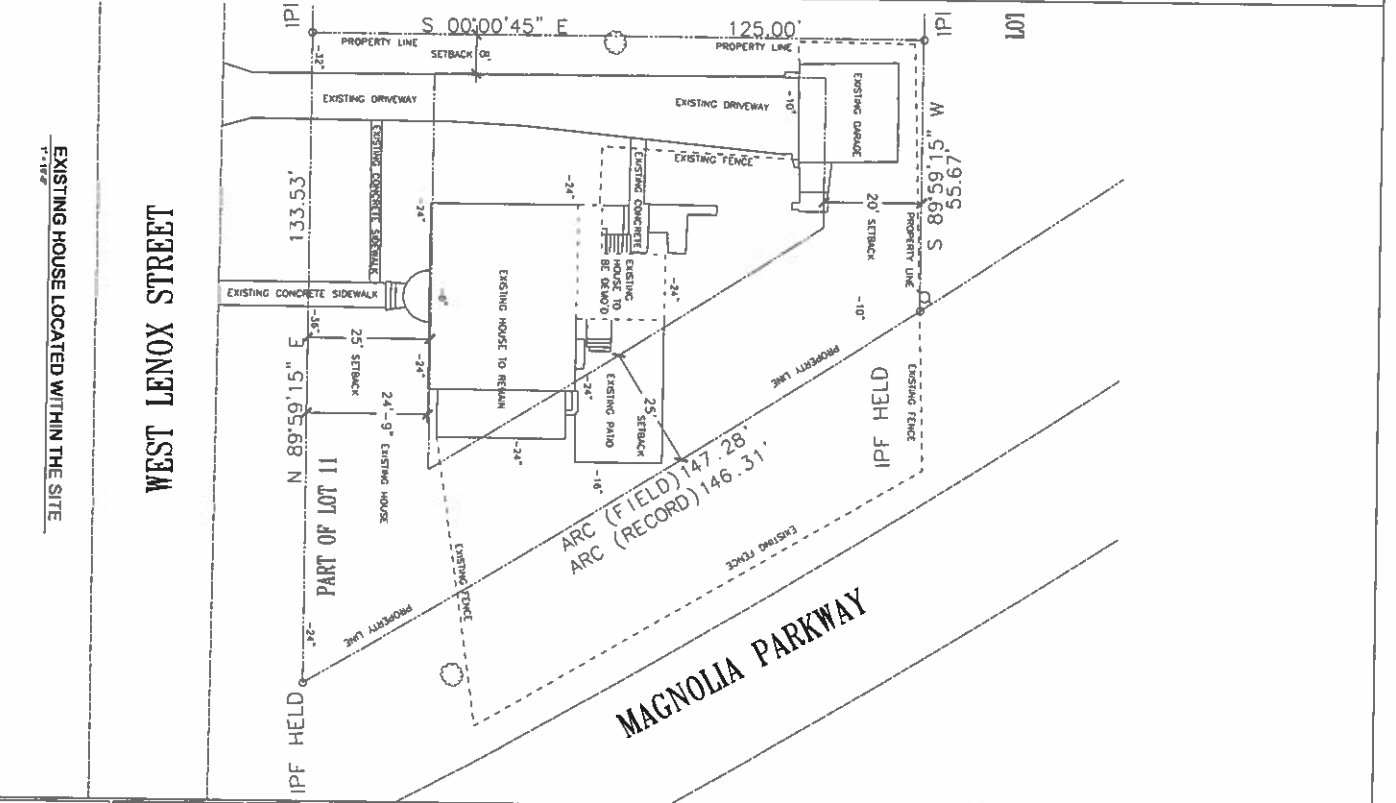
1/8" = 1'-0"

DRAWING TITLE:

Existing Images



PROPOSED NEW ADDITION TO EXISTING HOUSE  
1" = 16'



EXISTING HOUSE LOCATED WITHIN THE SITE  
1" = 16'

A501	SITE PLAN	HOUSE ADDITION	PERMIT SET 04-23-12			COURTNEY RESIDENCE ADDITION 23 WEST LENOX ST CHERRY CREEK, CO. 80513	14
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DEPARTMENT OF PERMITTING SERVICES

Marc Elrich  
*County Executive*

Rabbiah Sabbakhan  
*Director*

# HISTORIC AREA WORK PERMIT APPLICATION

Application Date: 12/3/2024

Application No: 1095563  
AP Type: HISTORIC  
Customer No: 1306472

## Affidavit Acknowledgement

The Contractor is the Primary applicant authorized by the property owner  
This application does not violate any covenants and deed restrictions

## Primary Applicant Information

Address 20 W LENOX ST  
CHEVY CHASE, MD 20815  
Othercontact Rolling Acres Landscaping (Primary)

## Historic Area Work Permit Details

Work Type ALTER

Scope of Work We are proposing to rebuild the existing fence, in order to meet Montgomery County Pool Codes. In addition to adding an in-ground pool, we will also be adding elevated hardscape features, such as a spa, outdoor kitchen, and screen wall.

CASE NO. A-8589  
Variance and Special Permit Request of Mr. Daniel P. Coughlan & Mrs. Kristen Coughlan  
(Hearing held January 13, 2025)

DECISION OF THE BOARD OF MANAGERS

**Summary of Case**

This proceeding is an application for a variance and Special Permit pursuant to Section 8-10(b) of the Chevy Chase Village Code (the “Village Code”). Mr. Daniel P. Coughlan & Mrs. Kristen Coughlan (the “Applicants”) propose to install a swimming pool and therapeutic bath (the subject of variance application 8576) and to replace an existing fence measuring four feet, eight inches (4’8”) in height with a fence measuring five feet (5’) in height. The proposed fence is sought to satisfy the requirements for an outdoor swimming pool enclosure, which must be a minimum of five feet (5’) in height. The proposed fence will be placed in the same location as the existing fence, which is located between the Magnolia Parkway front lot line and the front building restriction line, and in the Magnolia Parkway Public Right-of-Way.

The property is known as all of Lot numbered Eleven (11), except the East 60 Feet front on Lenox Street by the full depth thereof, in Block Number Thirty-Eight (38) in the subdivision known as “Section 2, Chevy Chase” as per plat recorded in Plat Book No. 2, Plat 206 in the land records of Montgomery County, Maryland, also known as 20 West Lenox Street, Chevy Chase, Maryland 20815 (the “Property”).

**Applicable Law**

The Applicants seek a variance from Code Section 8-24 (b), and Sec. 8-21(e) which provides in pertinent part:

Sec. 8-24. Swimming pools and outdoor therapeutic baths.

(b) Enclosure of pools. Any swimming pool or the property upon which a swimming pool is situated shall be surrounded by a fence or wall or equivalent enclosure not less than sixty (60) inches in height above grade at the exterior of the fence, which shall be so constructed as not to be easily climbed or penetrated. Gates and/or doors to any such enclosure shall comply in



all respects with County regulations pertaining to swimming pool enclosures, and shall be maintained in good condition. A dwelling house or accessory building may be used as part of such enclosure.

And,

Sec. 8-21. Installation and maintenance of fences, walls, trees, hedges, shrubbery, lamp posts, landscape lighting, electric vehicle charging stations, handrails and arbors states:

(e) Fence and wall height in front yard. No person shall construct any fence or wall which exceeds forty-eight (48) inches in height at any location between the front lot line and the front building restriction line.

The Applicants also seek a Special Permit from Code Section 25-6(c) which provides in pertinent part:

Sec. 25-6. Structures, fences, walls, lamp posts, landscape lighting, handrails, trees, hedges and shrubbery in public right-of-way.

(c) Except as provided in Sec. 25-6 (b), no structures, fence, wall, lamp post, handrail, tree, hedge or shrubbery, or any other growth shall be permitted on public property devoted to private use without a Special Permit from the Board of Managers.

Code Sec. 8-9(b) provides that the Board of Managers may grant a Special Permit if it finds that: (1) the proposed Special Permit would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties; (2) the proposed Special Permit can be granted without substantial impairment of the intents and purposes of Chapter 8; and (3) for all Special Permits, the structure authorized by the proposed Special Permit would not violate any covenant applicable to the property.

Further Code Sec. 8-9(c) provides that the Board of Managers may grant a variance if it finds that the proposed variance: (1) is required because special conditions exist whereby the enforcement of the requirements of the building regulations would result in unwarranted hardship and injustice to the owner; (2) would most nearly accomplish the intent and purpose of the requirements of the building regulations; and (3) except for variances authorized by Sections 8-21[fences], 8-26 [driveways] or Chapter 25 [public rights-of-way] of the building regulations, the structure authorized would not violate any covenant applicable to the property.

**Procedural History**

The Applicants submitted an online application on November 15, 2024, for a variance and a Special Permit for the above-referenced fence replacement. Notice of the hearing was posted at the Village Hall, posted at the Property, and mailed (and emailed where possible) to all abutting and confronting property owners on January 3, 2025. The notice indicated that the Board of Managers would hold a public hearing in the Village Hall on January 13, 2025, at 7:30 p.m. to consider the Applicants' request. The hearing was held as scheduled. During its meeting on January 13, 2025, a hearing was also held to consider Case A-8576 for the associated pool and therapeutic bath.

### **Summary of Evidence**

In support of the request, the Applicants submitted the following: (i) a copy of the denied Building Permit Application; (ii) the aforementioned Application for a Variance; (iii) a written supplemental statement to the variance application; (iv) a site plan of the Property depicting the location of the features on the Property; (v) a plat of the property; (vi) picture of the proposed fence; (vii) the covenants applicable to the Property; and (viii) the previous decision issued by the Village Board for the current fence dated October 3, 2008. A Staff Information Report was submitted for the record by Village staff.

Also submitted for the record was an email from Meredith Wellington of 18 West Lenox Street requesting a postponement of the hearing to address various concerns including: drainage, tree protection and noise related to the therapeutic bath and pool equipment's location, an email from Sue and Peter Keisler of 20 Magnolia Parkway in support of the variance and Special Permit application, and a letter from architect Gregory Wiedemann on behalf of Meredith Wellington of 18 West Lenox Street outlining concerns with the proposed project.

Because the Property is in the Village Historic District, a Historic Preservation Commission (HPC) hearing was held on January 8, 2025, to consider a Historic Area Work Permit (HAWP) for the proposed pool, therapeutic bath and fence replacement. The HPC took a straw vote and the majority of the commissioners voted in support of the proposed fence, provided the new fence is a picket-style

rather than a solid board fence, and in support of the proposed pool and therapeutic bath. The HPC delayed a formal vote to approve the HAWP pending Village Board approval of the variance and Special Permit case in this case for the portion of the proposed fence in the Magnolia Parkway public right-of-way and pending submission of the Village Arborist's tree preservation plan.

The Applicants state that the variance and Special Permit are required to allow them to increase the height of the current fence to comply with the fence enclosure requirements for pools. The Applicants prefer to use the current fence line rather than installing additional fencing within the Property at a compliant location. The Property is a corner lot and proposed fence would be used to enclose what the residents use as their "rear" yard, which abuts the Magnolia Parkway frontage of the Property.

The Applicants state that the proposed variance and Special Permit would meet the intent and purpose of the requirements of the Village Code because the proposed fence would be the minimum necessary to comply with the Village and Montgomery County Codes' requirements for pool enclosure fencing, and the proposed fence will be a style with open slats to lessen the visual obstruction along the right-of-way as required by the Historic Preservation Commission. The fence would be replaced in its existing location, which is six feet and seven and one-eighth inches (6'-7 1/8") from the curb along Magnolia Parkway.

Mr. Coughlan entered into the record at the hearing a photo that he described was taken in his south yard looking toward the rear yard of 18 West Lenox Street in which fencing and a White Oak tree located along the shared property line are visible.

Laura Simo of 5625 Grove Street spoke at the hearing and expressed concerns with the proposed projecting citing that the current fence feels very close to the roadway, where many residents walk, and she urged the Board to require the new fence to be setback further from the street. Ms. Wellington also spoke at the hearing and reiterated the concerns stated in her written testimony

regarding preservation of the White Oak tree located on the shared property line, and she requested an opportunity to review the Tree Preservation Plan before it is finalized. She also stated that she had concerns regarding the impact on the new fences on the tree. She suggested that the fence move closer to the pool to lessen the impact on the tree. She also commented on the new height of the fence in the right-of-way would take away from the park like setting of the street and that a new higher fence could be built in a new location to leave the current fence at its location and height.

The applicable covenants for the Property do not contain any provisions restricting the placement of fences.

**Findings of Fact**

Based upon the testimony and evidence of record, the Board of Managers makes the following findings in connection with this matter:

1. The Property is located at the southeast corner of West Lenox Street and Magnolia Parkway;
2. The Property is located in the Village’s Historic District;
3. The location of a swimming pool at the Property will require a fence five feet (5’) in height as required by County and Village Codes;
4. The proposed location of a pool is the most practical and private location on the Property and allowing the height of an existing fence surrounding the property to be increased in height by four inches (4”) to provide the required enclosure fencing is reasonable;
5. The Applicants will obtain all necessary Montgomery County building permits prior to the Village releasing its permits for the project;
6. The HPC will support the proposed fence subject to Village Board approval of a Special Permit for the portion of the proposed fence in the Magnolia Parkway public right-of-way and pending submission of the Village Arborist’s tree preservation plan.

## **Conclusions**

Based upon the foregoing findings, the Board concludes that: (1) special conditions exist at the Property whereby the enforcement of the requirements of the building regulations would result in unwarranted hardship and injustice to the Applicants because the proposed fence will be located in the same location as the previously approved fence and would meet the height requirements for pool enclosure fencing; (2) the variance and Special Permit can be granted without substantial impairment of the intent and purpose of the building regulations because among the intents and purposes of the Village Code are: a) enabling the reasonable use and enjoyment of Property and the fence is sought to comply with the Codes enclosure fencing requirements for pools; and b) maintaining the character of the neighborhood as the proposed fence would be required to meet the HPC requirements by being a picket- (or other open-) style; (3) the variance and Special Permit will not violate any covenant applicable to the Property; and (4) the proposed variance and Special Permit would not adversely affect the public health, safety or welfare nor the reasonable use of adjoining properties because the concerns raised by neighbors and a member of the public will either be addressed during the permit review process (storm water management), are the subject of code enforcement (Noise Ordinances) or will be addressed in the Village Arborist's tree preservation plan

## **Grant of Variance and Special Permit**

Accordingly, the requested variance and Special Permit to replace an existing fence measuring four feet, eight inches (4'8") in height with a fence measuring five feet (5') in height in the same location as the existing fence, which is located between the Magnolia Parkway front lot line and the front building restriction line, and in the Magnolia Parkway Public Right-of-Way is GRANTED subject to the following conditions:

1. Before a Village Building Permit is issued, the Applicants shall have obtained applicable Montgomery County permits and an Historic Area Work Permit and the Village staff shall provide the Village Arborist's Tree Preservation Plan for the project to the owners of 18 West Lenox Street.

2. The construction shall be performed in accordance with all of the Applicants' representations submitted for the record of this matter, which shall include documentation that the fence will be a picket- or other style as required by the Historic Preservation Commission.

3. The variance and Special Permit hereby granted shall expire if the work is not completed on or before January 24, 2026.

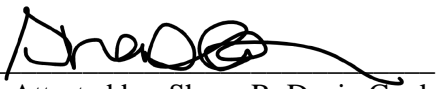
**Resolution**

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 8-12(d) of the Chevy Chase Village Code, and the Village Manager be and hereby is authorized and directed to issue a permit for the replacement fence upon the conditions, terms, and restrictions set forth above.

The foregoing Decision and Resolution was adopted by the Chevy Chase Village Board of Managers, with the following members voting in favor: Robert C. Goodwin Jr., Linda Willard, Gary Crockett, Nancy Watters, and David L. Winstead. Elissa Leonard abstained. Lou Morsberger was absent and did not participate in this matter.

I DO HEREBY CERTIFY that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers.

  
Attested by: Shana R. Davis-Cook  
Village Manager

The foregoing decision was mailed to the appellant(s) on the 24th day of February, 2025.

CASE NO. A-8576  
Variance Request of Mr. Daniel P. Coughlan & Mrs. Kristen Coughlan  
(Hearing held January 13, 2025)

DECISION OF THE BOARD OF MANAGERS

**Summary of Case**

This proceeding is an application for a variance pursuant to Section 8-10(b) of the Chevy Chase Village Code (the “Village Code”). Mr. Daniel P. Coughlan & Mrs. Kristen Coughlan (the “Applicants”) propose to construct an outdoor therapeutic bath and swimming pool all or most of which would be located forward of the required fifteen (15) foot setback from the Magnolia Parkway front line of the main building.

The property is known as all of Lots numbered Eleven (11), except the East 60 Feet front on Lenox Street by the full depth thereof, in Block Number Thirty-Eight (38) in the subdivision known as “Section 2, Chevy Chase” as per plat recorded in Plat Book No. 2, Plat 206 in the land records of Montgomery County, Maryland, also known as 20 West Lenox Street, Chevy Chase, Maryland 20815 (the “Property”).

**Applicable Law**

The Applicants seek a variance from Code Section 8-24 (a) which provides in pertinent part:

The Chevy Chase Village Code Sec. 8-24 states:

- (a) Setbacks. Any swimming pool or therapeutic bath shall be located as follows:
  - (1) A swimming pool or outdoor therapeutic bath must be set back at least fifteen (15) feet from the front building restriction line of the property or from the front main building line, whichever is greater.

Code Section 8-9(c) provides that the Board of Managers may grant a variance if it finds that the proposed variance: (1) is required because special conditions exist whereby the

enforcement of the requirements of the building regulations would result in unwarranted hardship and injustice to the owner; (2) would most nearly accomplish the intent and purpose of the requirements of the building regulations; and (3) except for variances authorized by Sections 8-21[fences], 8-26 [driveways] or Chapter 25 [public rights-of-way] of the building regulations, the structure authorized would not violate any covenant applicable to the property.

### **Procedural History**

The Applicants submitted an online application on November 15, 2024, for a variance for the above-referenced work. Notice of the hearing was posted at the Village Hall, posted at the Property, and mailed (and emailed where possible) to all abutting and confronting property owners on January 3, 2025. The notice indicated that the Board of Managers would hold a public hearing in the Village Hall on January 13, 2025, at 7:30 p.m. to consider the Applicants' request. The hearing was held as scheduled. During its meeting on January 13, 2025, a hearing was also held to consider Case A-8589, a Special Permit request for the associated enclosure fencing for this project.

### **Summary of Evidence**

In support of the request, the Applicants submitted the following: (i) a copy of the denied Building Permit Application; (ii) the aforementioned Application for a Variance; (iii) a written supplemental statement to the variance application; (iv) a site plan of the Property depicting the location of the features on the Property; (v) a plat of the property; (vi) the covenants applicable to the Property and a Staff Information Report were submitted for the record by Village staff. An email from Meredith Wellington of 18 West Lenox Street requesting a postponement of the hearing to address various concerns including: drainage, tree protection and noise related to the pool equipment's location, an email from Sue and Peter Keisler of 20 Magnolia Parkway in support



of the variance application, and a letter from architect Gregory Wiedemann on behalf of Meredith Wellington of 18 West Lenox Street outlining concerns with the proposed project.

A Historic Preservation Commission (HPC) hearing was held on January 8, 2025, to consider a Historic Area Work Permit (HAWP) for the proposed pool, outdoor therapeutic bath and fence replacement. The HPC took a straw vote and the majority of the commissioners voted in support of the proposed pool and outdoor therapeutic bath; however, the HPC delayed a formal vote to approve the HAWP pending Village Board approval of the variance and Special Permit case (see A-8589) for the portion of the proposed fence in the Magnolia Parkway public right-of-way, and pending submission of the Village Arborist's tree preservation plan.

The Applicants state that the variance is required because of special conditions at the Property, specifically its unique shape due to being a corner lot with an acute angle resulting in a larger yard toward the north (West Lenox Street frontage) and a smaller yard to the rear of the residence to the south, which is used by the residents as their rear yard, and the additional setbacks required from the front yard on the Magnolia Parkway frontage. Further, there is an existing detached garage located in the south yard that further constrains the ability to comply with the Code-required setbacks.

They state that the proposed variance would meet the intent and purpose of the requirements of the Village Code because the proposed pool and therapeutic bath would be sufficiently screened by an existing tree line along the Magnolia Parkway front yard, coupled with the proposed enclosure fencing. The proposed outdoor therapeutic bath is proposed to be located more than fifty feet (50') away from the inside edge of the curb along Magnolia Parkway and the proposed pool is proposed to be located more than forty-eight feet (48') from the inside edge of the curb along Magnolia Parkway.

At the hearing, Mr. Coughlan stated that the outdoor therapeutic bath is sought to aid his wife as she manages health issues. He further stated that the family proposed the pool and outdoor therapeutic bath in a location that would provide the greatest possible setback from Magnolia Parkway. Mr. Coughlan entered into the record at the hearing a photo that he described was taken in his south yard looking toward the rear yard of 18 West Lenox Street in which fencing and a White Oak tree located along the shared property line are visible.

Laura Simo of 5625 Grove Street spoke at the hearing and expressed concerns with the proposed project citing that not all improvements can be accommodated on every property and that adherence to the Code's setback requirements should be maintained. An abutting neighbor at 18 Lenox Street, Ms. Wellington also spoke at the hearing and reiterated the concerns stated in her written testimony regarding preservation of the White Oak tree located on the shared property line, and she requested an opportunity to review the Tree Preservation Plan before it is finalized. She had submitted an email requesting a postponement of the hearing to allow additional time to address concerns including: drainage, tree protection and noise related to the pool equipment's location. Additionally, a letter was submitted by Gregory Wiedemann on behalf of Ms. Wellington outlining concerns related to the proposed project. One email was received from Mr. and Mrs. Keisler at 20 Magnolia Parkway stating that they have no objection to the proposed work.

The applicable covenants for the Property do not contain any provisions restricting the placement of a pool or therapeutic bath in the rear yard as proposed by the Applicants.

### **Findings of Fact**

Based upon the testimony and evidence of record, the Board of Managers makes the following findings in connection with this matter:

1. The Property is located at the southeast corner of West Lenox Street and Magnolia Parkway;
2. The Property is located in the Village's Historic District;
3. The property has a unique shape due to its location and the width of the Magnolia Parkway public right-of-way, which results in a smaller yard to the south of the Property at the rear of the residence;
4. The proposed location of the therapeutic bath and pool is the most practical and private location on the Property and is proposed to be screened with a fence measuring five feet (5') in height, and an existing stand of trees along the perimeter of the Property are proposed to be maintained;
5. The pool is requested to support the health and wellness of the Applicants and their family;
6. The proposed location of the pool complies with the Montgomery County Building Code;
7. The Applicants will obtain all necessary Montgomery County building permits prior to the Village releasing its permits for the project, and potential drainage issues will be addressed at the time of Village Building Permit issuance;
8. Any noise generated by use of the pool would be subject to the requirements and limitations outlined in the Village's and Montgomery County's Noise Ordinances;
9. A Historic Preservation Commission (HPC) hearing was held on January 8, 2025, to consider a Historic Area Work Permit for the proposed pool, outdoor therapeutic bath and enclosure fence. The HPC took a straw vote with the majority voting in support of the proposed pool and outdoor therapeutic bath but

delayed a formal vote pending Village Board approval of a Special Permit for the proposed fence in the Magnolia Parkway public right-of-way and pending submission of the Village Arborist's tree preservation plan.

### **Conclusions**

Based upon the foregoing findings, the Board concludes that: (1) special conditions exist at the Property whereby the enforcement of the requirements of the building regulations would result in unwarranted hardship and injustice to the owner because the unique shape and location of the Property prevent location of the therapeutic bath and pool, which is requested to promote the health and wellness of the Applicants and their family ; (2) the variance can be granted without substantial impairment of the intent and purpose of the building regulations because among the intents and purposes of the Village Code are: a) enabling the reasonable use and enjoyment of Property and the use of the pool and therapeutic bath would enhance the Applicants' use and enjoyment of their Property and their health and wellness; and b) maintaining the character of the neighborhood as the proposed structure and its location would be the least visible for abutting neighbors and screened from view by trees, plantings and required fencing and will be approved by the HPC pending submission of the Village Arborist's tree preservation plan; and (3) the variance will not violate any covenant applicable to the Property.

### **Grant of Variance**

Accordingly, the requested variance to construct an outdoor therapeutic bath and swimming pool, all or most of which would be located forward of the required fifteen (15) foot setback from the Magnolia Parkway front line of the main building of the Property is GRANTED subject to the following conditions:

1. Before a Village Building Permit is issued, the Applicants shall have obtained applicable Montgomery County permits and an Historic Area Work Permit and the Village staff shall provide the Village Arborist's Tree Preservation Plan for the project to the owners of 18 West Lenox Street.

2. The construction shall be performed in accordance with all of the Applicants' representations submitted for the record of this matter.

3. The variance hereby granted shall expire if the work is not completed on or before February 13, 2026.


**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 8-12(d) of the Chevy Chase Village Code, and the Village Manager be and hereby is authorized and directed to issue a permit for the construction of the outdoor therapeutic bath and pool upon the conditions, terms, and restrictions set forth above.

The foregoing Decision and Resolution was adopted by the Chevy Chase Village Board of Managers, with the following members voting in favor: Robert C. Goodwin Jr., Linda Willard, Gary Crockett, Nancy Watters, and David L. Winstead. Elissa Leonard abstained. Lou Morsberger was absent and did not participate in this matter.

I DO HEREBY CERTIFY that the foregoing Decision and Resolution were approved and adopted by the Chevy Chase Village Board of Managers.

  
Attested by: Shana R. Davis-Cook  
Village Manager

The foregoing decision was mailed to the appellant(s) on the 24th day of February, 2025.

# Feather & Assoc.

Tolbert V. Feather, Ph.D.

*Advisors for: Landscape Development  
Landscape Management, Plant Pest Management*

Chevy Chase Village  
5906 Connecticut Avenue  
Chevy Chase, MD 20815

March 7, 2025

## **Tree Preservation Plan – 20 West Lenox Street**

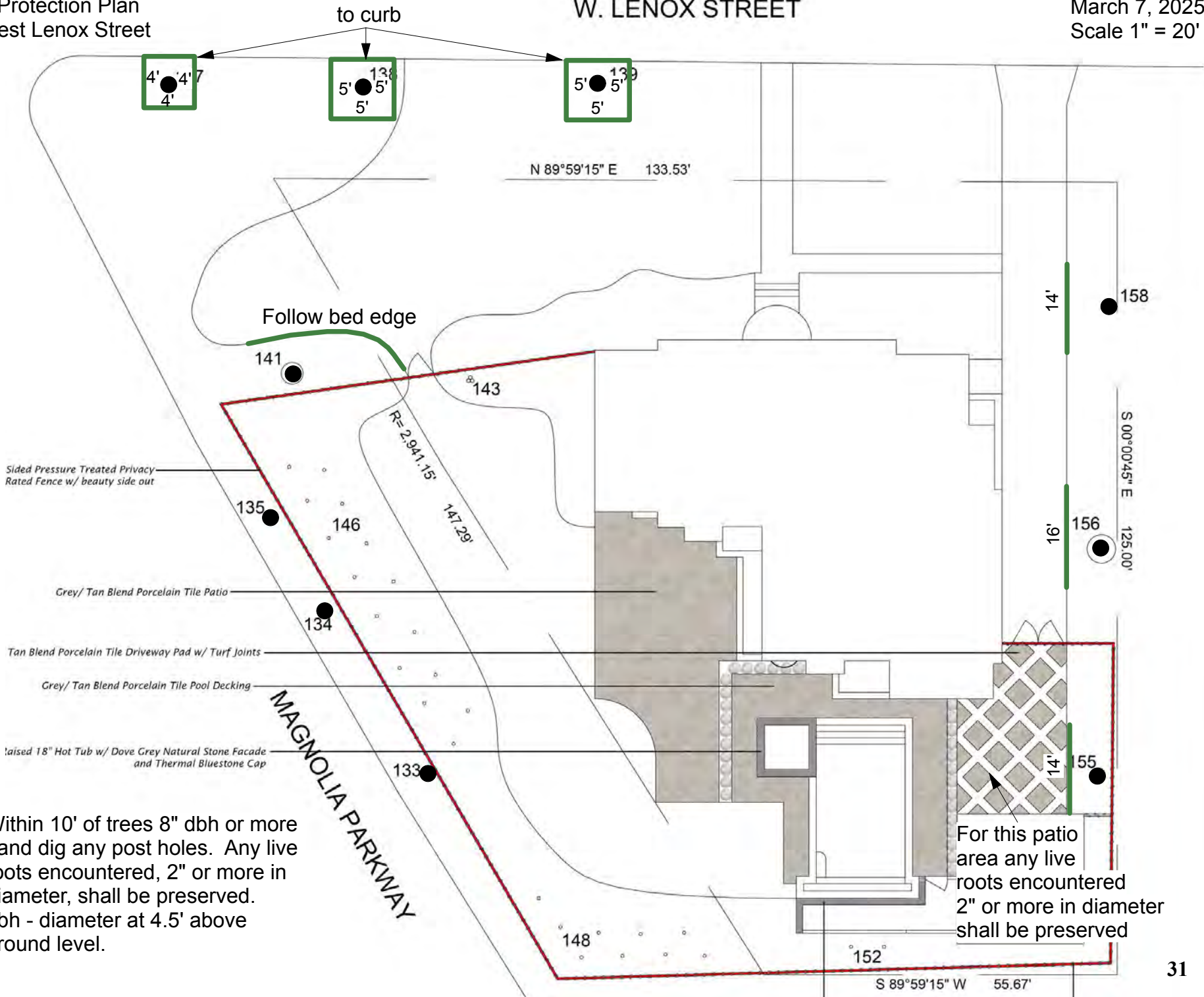
I recommend the issuance of the Building Permit conditioned on the Owner's compliance with the tree preservation plan shown on the attached sheet and as stated below.

Attached is a map of the tree preservation plan for the residence at 20 West Lenox Street.

1. Tree preservation fencing shall be installed in the locations shown on the plan. The street tree shall be protected. Tree preservation fencing shall delineate the tree protection zones. Tree preservation fencing shall be 4' tall wire mesh supported with steel stakes no less than 8' apart.
2. If silt fencing is required, it shall follow tree protection fencing.
3. The Owner/Contractor shall inform all on-site workers that the tree preservation zones shall not be entered. Neither materials nor equipment shall be stored within the tree preservation zones. No grading shall be done within the tree preservation zones. The grading outside the tree preservation zones shall not be changed to divert and collect water within tree preservation zones.
4. Within 10' of trees 8" dbh or more, hand dig any post holes. Any live roots encountered, 2" or more in diameter, shall be preserved (dbh - diameter at 4.5' above ground level).
5. No excavation is permitted within the tree preservation areas.
6. The Chevy Chase Village office shall be notified of any construction plan changes.
7. If excavation (outside the tree preservation zone) exposes roots on protected trees, the damaged roots shall be cleanly cut before backfilling the hole.
8. The Owner/Contractor shall maintain the fencing until the construction is complete. The fencing may be removed to prepare and install the new landscaping.

W. LENOX STREET

to curb



Sided Pressure Treated Privacy  
 Rated Fence w/ beauty side out

Follow bed edge

Grey/ Tan Blend Porcelain Tile Patio

Tan Blend Porcelain Tile Driveway Pad w/ Turf Joints

Grey/ Tan Blend Porcelain Tile Pool Decking

Raised 18" Hot Tub w/ Dove Grey Natural Stone Facade  
 and Thermal Bluestone Cap

MAGNOLIA PARKWAY

For this patio  
 area any live  
 roots encountered  
 2" or more in diameter  
 shall be preserved

Within 10' of trees 8" dbh or more  
 hand dig any post holes. Any live  
 roots encountered, 2" or more in  
 diameter, shall be preserved.  
 dbh - diameter at 4.5' above  
 ground level.