

A-6183

Retroactive Administrative Variance

Maintain a replacement external air conditioning unit that was installed in the Broad Branch Road front (east) yard.

Mr. David Kushner  
111 Newlands Street

# 111 Newlands Street



**Figure 1: View of 111 Newlands Street looking northwest. The subject air conditioning unit is located behind the lattice screen abutting the garage.**

**CHEVY CHASE VILLAGE  
NOTICE OF RETROACTIVE ADMINISTRATIVE VARIANCE REQUEST**

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Please take notice that the Chevy Chase Village Building Officer and Village Manager will conduct an administrative review of a retroactive variance application for the following:

**APPEAL NUMBER A-6183  
MR. DAVID KUSHNER  
111 NEWLANDS STREET  
CHEVY CHASE, MARYLAND 20815**

The applicant seeks an administrative variance pursuant to Section 8-13 of the Chevy Chase Village Building Code to maintain a replacement external air conditioning unit that was installed in the Broad Branch Road front (east) yard.

**The Chevy Chase Village Code § 8-20(a) states in pertinent part:**

An external air conditioner heat pump or generator which is located so that it is a developmental nonconformity may not be replaced, unless the Board of Managers grants a variance.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) or you may contact the office for this information to be mailed to you.

This notice was mailed to abutting and confronting property owners on the 9<sup>th</sup> day of August 2012. Abutting or confronting property owners or any aggrieved resident may, within fifteen (15) days of the date the notices are issued, submit written comments and request that the application be submitted to the Board of Managers in accordance with Section 8-12 of the Chevy Chase Village Building Code.

**Chevy Chase Village Office  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815  
301-654-7300**

**MAILING LIST FOR APPEAL A-6138**

**MR. DAVID KUSHNER  
111 NEWLANDS STREET  
CHEVY CHASE, MD 20815**

<b>Adjoining and confronting property owners</b>	
Mr. George A. Boinis Or Current Resident 105 Newlands Street Chevy Chase, MD 20815	Ms. Sarah Dash Or Current Resident 110 Newlands Street Chevy Chase, MD 20815
Mr. & Mrs. R. Michael Sweeney Or Current Resident 112 Newlands Street Chevy Chase, MD 20815	Mr. & Mrs. Marc Fleischaker Or Current Resident 6308 Broad Branch Road Chevy Chase, MD 20815
Ms. Pinar Taskin & Mr. Omer Taspinar Or Current Resident 6313 Broad Branch Road Chevy Chase, MD 20815	Mr. & Mrs. F. Gordon Maxxson Or Current Resident 6320 Broad Branch Road Chevy Chase, MD 20815
Ms. Barbara Zylinski & Dr. Natasha Matic Or Current Resident 6315 Broad Branch Road Chevy Chase, MD 20815	

I hereby certify that a public notice was mailed to the aforementioned property owners on the 9<sup>th</sup> day of August, 2012.

**Ellen Sands  
Permitting and Code Enforcement Coordinator  
Chevy Chase Village  
5906 Connecticut Avenue  
Chevy Chase, MD 20815**

# CHEVY CHASE VILLAGE

ESTABLISHED 1890

August 9, 2012

Mr. David Kushner  
111 Newlands Street  
Chevy Chase, MD 20185

Dear Mr. Kushner:

Please note that your request for an administrative review of a variance request to maintain the replacement external air conditioning unit in the Broad Branch Road front (east) yard of your property is being considered by the Building Officer and Village Manager.

A public notice was mailed to abutting and confronting property owners on the 9<sup>th</sup> day of August 2012 and signs were posted at the property. Abutting or confronting property owners or any aggrieved resident may, within fifteen (15) days of the date the notices are issued, submit written comments and request that the application be submitted to the Board of Managers in accordance with Section 8-12 of the Chevy Chase Village Building Code.

For your convenience, enclosed please find copies of the Public Notice and mailing list. Please contact the Village office if you have any questions.

Sincerely,



Ellen Sands  
Permitting and Code Enforcement  
Chevy Chase Village

Enclosures

#### CHEVY CHASE VILLAGE

5906 Connecticut Avenue  
Chevy Chase, Maryland 20815

Phone (301) 654-7300

Fax (301) 907-9721

ccv@montgomerycountymd.gov  
www.chevychasevillagemd.gov

#### BOARD OF MANAGERS

PATRICIA S. BAPTISTE  
*Chair*

PETER T. KILBORN  
*Vice Chair*

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THOMAS H. JACKSON  
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GARY CROCKETT  
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MICHAEL L. DINGER  
*Assistant Treasurer*

DAVID L. WINSTEAD  
*Board Member*

VILLAGE MANAGER  
SHANA R. DAVIS-COOK

# Chevy Chase Village Building Permit Application for Air Conditioning Units, Heat Pumps, Generators and Geothermal Wells

These mechanical units are regulated by Chevy Chase Village Code Section 8-23(c).

Permit No: A-6138

<b>Property Address:</b> <u>111 NEWLANDS STREET</u>	
<b>Resident Name:</b> <u>DAVID KUSHNER</u> Daytime telephone: <u>301-656-0797</u> Cell phone: <u>301-944-4075</u> After-hours telephone: <u>SAME</u> E-mail: <u>DAVIDKUSHNER@TRC-LLC.COM</u>	
<b>Primary Contact for Project:</b> <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Architect <input type="checkbox"/> Project Manager <input type="checkbox"/> Contractor* *MHIC/MD Contractor's License No. (required):	
<b>Primary Contact Information:</b> Name: Daytime telephone:      After-hours telephone: E-mail:	
<b>Check all that apply:</b> <input checked="" type="checkbox"/> Air Conditioning Unit [ ____ # unit(s)] <input type="checkbox"/> Heat Pump(s) [ ____ # unit(s)] Is this heat pump a geothermal/geoexchange or ground source heat pump? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how many wells will be drilled? <input type="checkbox"/> Generator(s) [ ____ #unit(s)]	
<b>Check all appropriate boxes:</b> Mechanical unit is:      [ <input checked="" type="checkbox"/> NEW, <input type="checkbox"/> an enlargement of an existing unit; and/or <input type="checkbox"/> being relocated. <input checked="" type="checkbox"/> Mechanical unit is a replacement in-kind and in the same location.	
<b>Description of type and location of mechanical unit(s) to be installed:</b> <u>TRANE XL151-036 Condenser w/ matching air handler</u> <u>SIDE OF HOUSE ON BROADBRANCH</u>	
To be completed by Village staff: Is this property within the historic district?      Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Staff Initials: <u>GB</u> Date application filed with Village: <u>7/16/12</u> Date permit issued: _____      Expiration date: _____	

## Excerpt from the Chevy Chase Village Code:

**Sec. 8-4. Residential building permits.** [...]ny person intending to construct any of the following must, after obtaining a valid County building permit, obtain a building permit from the Village: [...] (6) Construction or installation of an external antenna, air conditioner or heat pump, including the replacement of any external air conditioner or heat unit, which is a developmental nonconformity (see sections 8-20 and 8-23);

**Sec. 8-20. Developmental nonconformities.**

(a) [...] An external air conditioner, heat pump or generator which is located so that it is a developmental nonconformity may not be replaced, unless the Board of Managers grants a variance.

**Sec. 8-23. Tennis courts, antennae, air conditioners, heat pumps and generators.**

(c) *Air conditioners, heat pumps and generators.* No person shall install an external air conditioner, heat pump or generator within seven (7) feet of any side lot line or rear lot line nor in the front yard of any property without a special permit from the Board of Managers. All external air conditioners, heat pumps and generators must comply with the noise control provisions and building regulations of the county.

**Cross reference(s)**--Fine for violation of this section, ' 6-3(a)(12).

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## Building Permit Application for Air Conditioning Units, Heat Pumps, Generators and Geothermal Wells: Filing Requirements

*Application will not be reviewed until the application is complete*

- Copy of stamped approved plans & permits from Montgomery County.
- This application form, signed by resident.
- Boundary Survey
- Site Plan (see: Village Site Plan Checklist to ensure completeness) showing exact location of units
- Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- Filing Fee (due at time of application). Fee schedule is listed in Chapter 6 of the Village Code.
- Damage deposit or performance bond (due when permit is issued). Amount will be set by Village Manager.

*Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.*

*If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.*

*No signs advertising any service provider may be posted on the work site.*

**I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.**

**Applicant's Signature:** 

**Date:** 7-14-12

<b>For Use By Village Manager</b>	<b>Application approved with the following conditions:</b>
<b>For Use By Village Manager</b>	<b>Application denied for the following reasons:</b>

DENIED

JUL 16 2012

Chevy Chase  
Village Manager

<b>Filing Fees</b> (due when application submitted)	<b>Checks Payable to:</b>  <b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
<b>Permit Application Fee:</b> <input type="checkbox"/> \$50.00 (if mechanical unit is new, enlarged or relocated) <input checked="" type="checkbox"/> \$25.00 (if mechanical unit is a replacement in-kind and in the same location)	
<b>Tree Preservation Plan Fee:</b> <input type="checkbox"/> \$250.00 <input checked="" type="checkbox"/> Not required for this project	
<b>TOTAL Fees:</b> <span style="font-size: 1.5em; color: blue;">\$25.00</span>	<b>Date:</b> <span style="color: blue;">7/16/12</span> <b>Staff Signature:</b> <span style="color: blue;">[Signature]</span>
<b>Damage Deposit/Performance Bond</b> <input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	<b>Date:</b> <b>Village Manager Signature:</b>

*For Village Staff use:*

Field file for inspections by Code Enforcement Officer has been created:  Yes (Date: \_\_\_\_\_)

# Chevy Chase Village

## Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

<b>Subject Property:</b> 111 Newlands Street, Chevy Chase, MD	
<b>Describe the Proposed Project:</b> REPLACE EXTERIOR AC UNIT	
<b>Applicant Name(s) ( List all property owners):</b> DAVID KUSHNER	
Daytime telephone: 301-656-0797	Cell: 301-944-4075
E-mail: DAVIDKUSHNER@TRC-LLC.COM	
Address (if different from property address):	
For Village staff use:	
Date this form received: 8/1/12	Variance No: A-6183

### Filing Requirements:

#### Application will not be accepted or reviewed until the application is complete

- Completed Chevy Chase Village Application for a Variance (this form)
- Completed Chevy Chase Village Building Permit Application
- A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code.
- Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

### Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: David Kushner

Date: 7-31-12

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Describe the basis for the variance request (attach additional pages as needed).**

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

REPLACING AN AC UNIT ON BROAD BRANCH  
SIDE OF HOUSE. ORIGINAL UNIT HAS BEEN  
AT THAT SITE FOR APPROX. 20 YEARS.

Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

ALL WIRING & PIPING & INTERIOR DUCTWORK  
ARE BASED ON CURRENT LOCATION OF AC UNIT  
ON BROAD BRANCH SIDE OF HOUSE. ANY CHANGES  
TO THIS WOULD BE EXCESSIVELY COSTLY AND MAY  
NOT BE POSSIBLE TO COMPLETE DUE TO AGE OF  
THE HOME.

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

*In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.*

<b>Variance Filing Fee</b>	<b>Checks Payable To:</b> Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
<i>Per Village Code Sec. 6-2(a)(24):</i>	<b>Date Paid:</b> 8/1/12
<input type="checkbox"/> \$300.00 for new construction. <input checked="" type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____	<b>Staff Signature:</b> <i>[Signature]</i>
<b>Fee Paid:</b> \$150.00 check # 1288	





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R Schwartz Jones  
Director

MECHANICAL PERMIT

Issue Date: 07/09/2012

Permit No: 604280  
Expires: 07/10/2013  
ID: EB5818

THIS IS TO CERTIFY THAT: GRIFFITH ENERGY SERVICES, INC.  
2510 SCHUSTER DRIVE  
CHEVERLY, MD 20781

HAS PERMISSION TO: REPLACE SINGLE FAMILY DWELLING  
Y Residential Building N Commercial Building

Heating Equipment		Cooling Equipment			Tanks ( Fuel-oil, LP-gas )		Tanks ( Expansion )		
Total Capacity (MBH)	Total Quantity	Total Capacity (Tons)	Total Quantity	Refrig. Unit	Chiller	Total Capacity (WG)	Total Quantity	Total Capacity (WG)	Total Quantity
.0	0	3.0	1	N	N	.0	0	.0	0
N Gas	N Electric	N Gas	Y Electric			N Commercial Hoods		Pre-Fab Fireplace:	0
N Oil	N Other	N Oil	N Other			N Cooling Towers		Pre-Fab Chimney:	0
						N Ductwork			
						N Fuel-oil Pumps			
						N Hydronic System Pumps			
						N Piping of Equipment			

PERMIT CONDITIONS: Replace

PREMISE ADDRESS: 111 NEWLANDS ST  
CHEVY CHASE, MD 20815-3332

LOT - BLOCK: 1 - 55

ZONE:

ELECTION DISTRICT: 07

BOND NO.:

BOND TYPE:

PS NUMBER:

PERMIT FEE: \$ 96.80

SUBDIVISION: CHEVY CHASE SEC 2

INSPECTOR: FRANCIS MACKIE

INSPECTOR MOBILE: (240)876-7768

PERMIT MUST BE KEPT AT THE JOB SITE

The equipment noise levels must comply with the receiving property line limits when measured in accordance with Ch. 31-B, MCC. For further information, contact the Department of Environment Protection at 240-777-7770.

The work performed on this permit must be in compliance with Montgomery County Zoning Ordinance development standards of the zone including location, setbacks, and height.

*Diane R. Schwartz Jones*

Director, Department of Permitting Services

*B/M*  
EXAMINER  
*ma*  
Cooley Bros.  
Investment Bldg  
H.C. 3/9/44

At the request of Charles E. Cooley and William O. Cooley the following Deed was recorded February 14th, A. D., 1944 at 1:07 o'clock P. M., to-wit:-

This Deed, Made this 8th day of February, in the year one thousand nine hundred and forty four, by and between The Chevy Chase Land Company, of Montgomery County, Maryland (a corporation duly organized under and by virtue of the laws of the State of Maryland), party of the first part, and Charles E. Cooley and William O. Cooley, as joint tenants, parties of the second part:

Witnesseth, That the said party of the first part, for and in consideration of the sum of Forty Thousand (\$40,000) dollars to it paid by the said parties of the second part, and of the covenants and agreements of the said parties of the second part as hereinafter set forth, does hereby grant and convey unto the said parties of the second part, as joint tenants in fee simple, the following described land and premises, with the improvements, easements, and appurtenances thereunto belonging, situate in the County of Montgomery State of Maryland, namely:

Lot 1, in Block 55, in a subdivision known as "Section 2, Chevy Chase", Montgomery County, Maryland; as per plat recorded in Plat Book No. 2, plat 106, one of the Land Records for said Montgomery County;

Subject to a 25 foot building restriction line as shown on said recorded plat.

Also Lots 6 and 7, in Block 55, of a resubdivision of Lot 5, in Block 55, in a subdivision known as "Section 2, Chevy Chase", Montgomery County, Maryland; as per plat of said resubdivision recorded in Plat Book No. 4, plat 310, one of the Land Records for said Montgomery County;

Subject to a 25 foot building restriction line as shown on said recorded plat.

Also Lots 19 to 25, both inclusive, and Lots 32 to 39, both inclusive in Block 46, and Lots 23 and 25 in Block 45, in a subdivision known as "Section 2, Chevy Chase", Montgomery County, Maryland; as per plat recorded in Plat Book No. 15, plat 974, one of the Land Records for said Montgomery County;

Subject to a 25 foot building restriction line as shown on said recorded plat.

Subject to a 6 foot reservation for surface drainage and the construction, operation and maintenance of a storm sewer and 5 foot reservation for the operation and maintenance of an existing sewer, both reservations crossing Lots 19 and 39 in Block 46, as shown on said recorded plat.

Subject to an 8 foot reservation across the South side lines of Lots 37 and 25 in Block 45, for the construction, operation and maintenance of water mains, as shown on said recorded plat.

Subject to an 8 foot reservation across the North side lines of Lot 36 in Block 46 for the construction, operation and maintenance of a sewer, as shown on said recorded plat.

Subject to a 10 foot reservation across the North side line of Lot 32 in Block 46 for the construction, operation and maintenance of water mains and a sewer, as shown on said recorded plat;

It is Hereby Understood and Agreed that no building shall be erected on the land hereby conveyed unless and until the plans of the elevations, the design and color scheme thereof, as well as the location of said buildings on said land shall be first approved in writing by The Chevy Chase Land Company of Montgomery County, Maryland, or its successors.

To Have and to Hold the said land and premises, with the improvements, easements and appurtenances, unto and to the use of the said parties of the second part.

In Consideration of the execution of this Deed, the said parties of the second part, for themselves, the survivor, his heirs, and assigns, hereby covenant and agree with the party of the first part, its successors and assigns (such covenants and agreements to run with the land), as follows, viz:

1. That all houses upon the premises hereby conveyed shall be built and used for residence purposes exclusively, except stables, carriage houses, sheds or other out-buildings, for use in connection with such residences, and that no trade, business, manufacture or sales, or nuisance of any kind shall be carried on or permitted upon said premises.

2. That no structure of any description shall be erected within twenty-five (25) feet of the front line of said premises; and that no stable, carriage house, shed, or outbuilding shall be erected except on the rear of said premises.

In case of corner lots any and all lines bordering upon a street, avenue or parkway shall be considered a front line.

3. That no house shall be erected on said premises at a cost less than Five Thousand (\$5,000.00) Dollars.

4. That any house erected on said premises shall be designed for the occupancy of a single family, and no part of any house or of any structure appurtenant thereto shall be erected or maintained within five (5) feet of the side lines of premises hereby conveyed, nor within (10) ten feet of the nearest adjacent house.

5. That a violation of any of the aforesaid covenants and agreements may be enjoined and the same enforced at the suit of The Chevy Chase Land Company, of Montgomery County, Maryland, its successors and assigns (assigns including any person deriving title mediately or immediately from said Company to any lot or square, or part of a lot or square in the Section of the Subdivision of which the land hereby conveyed forms a part).

And the said party hereto of the first part hereby covenants to warrant specially the property hereby conveyed, and to execute such further assurances of said land as may be requisite.

In Testimony Whereof, on the day and year first hereinbefore written, the said, The Chevy Chase Land Company, of Montgomery County, Maryland, has caused these presents to be signed with its corporate name by Edward L. Hillyer, its President, attested by Willard G. McGraw, its Secretary, and its corporate seal to be hereunto affixed, and does hereby constitute and appoint Willard G. McGraw its true and lawful Attorney in fact, for it and in its name, place, and stead to acknowledge these presents as its act and deed before any person or officer duly authorized to take such acknowledgment, and to deliver the same as such

Attest: Willard G. McGraw

Secretary

The Chevy Chase Land  
Co., of Montgomery  
Co., Maryland

The Chevy Chase Land Company of  
Montgomery County, Maryland,  
By: Edward L. Hillyer, President  
(Internal Revenue \$44.00)  
(State Tax \$40.00)

District of Columbia, to wit:

I, Frank I. Greenwalt, a Notary Public in and for the said District of Columbia, do hereby certify that on this 8th day of February, 1944, Willard G. McGraw, who is personally well known to me to be the person named as Attorney in fact in the foregoing and annexed Deed, dated the 8th day of February, 1944, to acknowledge the same, personally appeared before me in the said District of Columbia, and as Attorney in fact as aforesaid, and by virtue of the power and authority in him vested by the aforesaid Deed, acknowledged the same to be the act and deed of the said The Chevy Chase Land Company, of Montgomery County, Maryland, and delivered the same as such.

Given under my hand and seal this 8th day of February, A. D. 1944.

Frank I. Greenwalt  
Notary Public, D. C.