



Ordinance No:	<u>2020-15</u>
Introduced by Town Council:	<u>12/14/2020</u>
Public Hearing:	<u>01/11/2021</u>
Enacted:	<u>01/11/2021</u>
Effective:	<u>02/10/2021</u>

## ORDINANCE

### AUTHORIZING THE TERMINATION OF THE RESTRICTIVE COVENANT ON SETBACK IMPOSED ON PROPERTY AT 201 CHESTNUT AVENUE

#### **PART 1.** Background

- A. In August 2020, Marc and Peggy Hansen requested that the Town of Washington Grove (“Town”) terminate a restrictive covenant imposed on their property (201 Chestnut Avenue) by way of a deed dated March 6, 1978, filed at Liber 5129 Folio 699 in the Land Records for Montgomery County. The 1978 deed was between the Town and Philip Winter; the deed conveyed to Philip Winter a 25-foot strip along Chestnut Road. This 25-foot strip was a portion of Lots 1-5, Block 5, in the subdivision known as “Washington Grove, Section 3” as per “Plat 22” thereof recorded in the Land Records of Montgomery County. In 1950, ownership of this 25-foot strip was retained by the Town when the Town conveyed the other portions of Lots 1-5, Block 5, to Philip and Catherine Winter. The Town imposed two conditions with the 1978 sale of this 25-foot strip:
1. That building set-back requirements will continue to be measured from the boundary lines of Lots 1-5, Block 5, prior to the 1978 conveyance. (“Set-back Covenant”)
  2. The Town reserved an easement of an arc with a 20-foot radius at the intersection of Oak Street and Chestnut Avenue for the purpose of “promoting highway and traffic safety” and for “road improvements”. (“Traffic Safety Easement”)
- B. In August 2020 request, Marc and Peggy Hansen, requested that the Town terminate the first covenant from the 1978 conveyance. They did not ask that the Town relinquish the Traffic Safety Easement.
- C. In September 2020, the Mayor and Council referred the Hansen request to the Town’s Planning Commission.
- D. In November 2020, the Planning Commission reviewed the Hansen request and a collection of Town documents concerning the Set-back Covenant. The Planning Commission concurred with earlier Town evaluations that this 25-foot strip is not required for any road widening project. The Planning Commission also found this privately owned strip of land is different and distinct from the Town-owned strips along Town roads identified in the Town’s 2009 Master Plan as being held for maintaining open space. The Planning Commission noted that no other property along Chestnut Road has a similar 25-foot buffer. The Planning Commission concluded that the Set-back Covenant imposes inequitable treatment on the owners of 201 Chestnut Avenue, and that Town action is justified to terminate the Set-back Covenant.

#### **PART 2.** Termination of Set-back Covenant

- A. The Council hereby finds and declares and confirms that the Set-back Covenant imposed on Lots 1-5, Block 5, in the subdivision known as “Washington Grove, Section 3” as per

