



APPLICATION
To
Board of Zoning Appeals
City of Chesapeake, Virginia

I (we) the undersigned do hereby apply to the Chesapeake Board of Zoning Appeals for a hearing on the following request: Request for variance to allow setback from 31 feet to build Sunroom

Use extra sheets if necessary

Location of Property Involved in this Request

1808 Frederick CT

Address

Legal Description:

47

Lot

Block

Western Branch

Section

Phase/Part

Subdivision

Borough

Property Owner(s):

Tax Map ID or Real Estate Parcel Number:

0156002000470

Application Information

Susana Herlihy

Name

1808 Frederick CT

Mailing Address

Chesapeake VA 23321

City/State/Zip

757-483-1189

Home Phone Number

E-mail Address

757-676-8380

Cell Phone Number

Applicant's Interest in the Property

Owner (A Power of Attorney Form is required) Contract Purchaser Owner's Agent Lessee/Tenant

Other (explain)

Susana Herlihy

Applicant's Signature

Thomas Herlihy

Applicant's Signature

Reviewing Zoning Official: Calvin
Date and Time Received: 8/20/2020 3:30pm
Zoning District: R-155
Zoning Map Number: 503
Receipt Number: 570416

Board of Zoning Appeals Use Only:
BZA APPLICATION NUMBER: 20-24 HEARING DATE: 9/24/20
 Granted Denied Withdrawn Upheld Overturned
Conditions: _____

ACKNOWLEDGEMENT

BZA APPLICATION NUMBER: 420-24 (to be completed by BZA Secretary)

DECLARATION OF BOARD OF ZONING APPEALS INTEREST:

State whether any member of the Board of Zoning Appeals owns or has any personal or financial interest in the land that is subject to the application, or has any personal or financial interest in the outcome of the decisions, as defined by the Virginia Conflict of Interest Act.

No

DECLARATION OF ACCURACY:

I, the undersigned, certify that this application is complete, accurate and contains all required and requested information, documents, and other submittals, and that all statements made, herein, are to the best of my knowledge, true and correct. I further certify that I have exercised due diligence to obtain the most recent, complete and correct information available. I understand that wrongful certification or failure to provide required or requested documents that become available after the initial submittal of this application may result in a delay in, or invalidation of, any official governmental action taken. Fraudulent representations may lead to additional penalties under law.

DECLARATION OF FINANCIAL RESPONSIBILITY FOR LEGAL ADVERTISEMENT:

By signing below, I understand that the cost of advertising for public hearing notification purposes is my responsibility and do hereby agree to pay all notices of payment due and invoices associated with advertising costs for this application, including newspaper and, all re-advertisements for continuances, re-hearings and appeals, as applicable.

DECLARATION OF CONSENT:

By signing below, the applicant/agent consents to entry upon the subject property by public officers, employees, and agents of the City of Chesapeake wishing to view the site for purposes of processing, evaluating, or deciding upon this application. Check the *party responsible for advertising*: Applicant Agent

Owner/Applicant Signature:	<u>Susana Herlitzky</u>
Owner/Applicant Signature:	<u>Susana Herlitzky</u>
Owner/Applicant Printed Name(s):	<u>SUSANA HERLITZKY</u>
Owner/Applicant Address:	<u>1808 Frederick Ct, Chesapeake, VA</u>
Telephone Number(s):	<u>757-676-8380</u>
Email Address:	<u>Sher1104@hotmail.com</u>
Date:	<u>8/20/2019</u>



T504D

R-15S

T503A

ANCHOR BEND CT

FREDERICK C

WOODLAND DR

DOCK HARBOUR DR

CHARLOTTE ANNEX CT



ANCHOR BEND CT

FREDERICK CT

CHARLOTTE AVE CT

WOODLAND DR

DOCK HARBOUR DR

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



Parcel Number: 0156002000470
Property Address (Primary): 1808 FREDERICK CT
 CHESAPEAKE , 23321
Parcel Class: 2010
Parcel Class Description: RESIDENTIAL - SINGLE FAMILY

Summary

Property Owner	HERLIHY THOMAS E & SUSANA I
Owner Address Address	1808 FREDERICK CT CHESAPEAKE , VA 23321-1962
Zoning	R15S: Residential
Acreage	0.344
Legal Description	LOT 47 WEAVERS SPRING

Site Information

Neighborhood Number	WB077
Neighborhood Description	WEAVERS SPRING
Borough:	WESTERN BRANCH
Building Name	
Frontage Length	119.5
Other Dimensions	X125.00X120.50X125.00
Land Use Participant	No

Assessment Information

Date	Fiscal Year	Land Value	Land Use Value	Improvement Value	Total Value
7/1/2020	2021	\$120,000		\$274,300	\$394,300
7/1/2019	2020	\$120,000		\$274,300	\$394,300
7/1/2018	2019	\$120,000		\$284,600	\$404,600
7/1/2017	2018	\$110,000		\$258,700	\$368,700
7/1/2016	2017	\$110,000		\$258,700	\$368,700
7/1/2015	2016	\$115,000		\$249,200	\$364,200
7/1/2014	2015	\$115,000		\$249,200	\$364,200
7/1/2013	2014	\$115,000		\$249,200	\$364,200
7/1/2012	2013	\$125,000		\$239,700	\$364,700
7/1/2011	2012	\$140,000		\$239,700	\$379,700
7/1/2010	2011	\$150,000		\$242,200	\$392,200
7/1/2009	2010	\$175,000		\$251,800	\$426,800
7/1/2008	2009	\$175,000		\$299,300	\$474,300
7/1/2007	2008	\$175,000		\$325,300	\$500,300
7/1/2006	2007	\$140,000		\$325,300	\$465,300
7/1/2005	2006	\$100,000		\$306,400	\$406,400

Ownership Information

Buyer Name	Seller Name	Sale Date	Sale Amount	Deed Book	Deed Page	Map Book/Page
HERLIHY THOMAS E & SUSANA I	HSBC MORTGAGE SERVICES	9/30/2008	\$409,900	7613	809	01430129
HSBC MORTGAGE SERVICES	HAMILTON WILLIAM A III ET AL	4/28/2008	\$494,000	7466	838	01430129
HAMILTON WILLIAM A III ET AL	CENDANT MOBILITY FINANCIAL CORP	12/21/2005	\$494,000	6306	372	01430129
CENDANT MOBILITY FINANCIAL CORP	HARRIS GARRY W & YVONNE L	12/21/2005	\$494,000	6306	369	01430129
HARRIS GARRY W & YVONNE L	CARUANA CONSTRUCTION INC	3/26/2004	\$399,000	5328	294	01430129
CARUANA CONSTRUCTION INC	EMERALD WOODS L L C	1/9/2003	\$1	4809	243	01430129
EMERALD WOODS L L C		1/1/1901	\$	0	0	01430129

DISCLAIMER: This data is provided without warranty of any kind, either expressed or implied, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Any person, firm or corporation which uses this map or any of the enclosed information assumes all risk for the inaccuracy thereof, as City of Chesapeake expressly disclaims any liability for loss or damage arising from the use of said information by any third party.

Real Estate Tax

Current Year	Bill Number	Year	Installment	Date Due	Tax Billed	Tax Paid	Balance Due
2020	33684	2020	INSTALLMENT #1	9/30/2019	\$1,035.04	-\$1,035.04	\$3,105.12
2020	33684	2020	INSTALLMENT #2	12/31/2019	\$1,035.04	-\$1,035.04	\$2,070.08
2020	33684	2020	INSTALLMENT #3	3/31/2020	\$1,035.04	-\$1,035.04	\$1,035.04
2020	33684	2020	INSTALLMENT #4	6/30/2020	\$1,035.04	-\$1,035.04	\$0.00

Please contact the Treasurer's Office at (757) 382-6281 if you have questions regarding Tax Paid or Balance Due. Storm Water Fees and prior balances do not show on this tab.

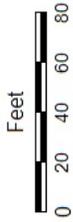
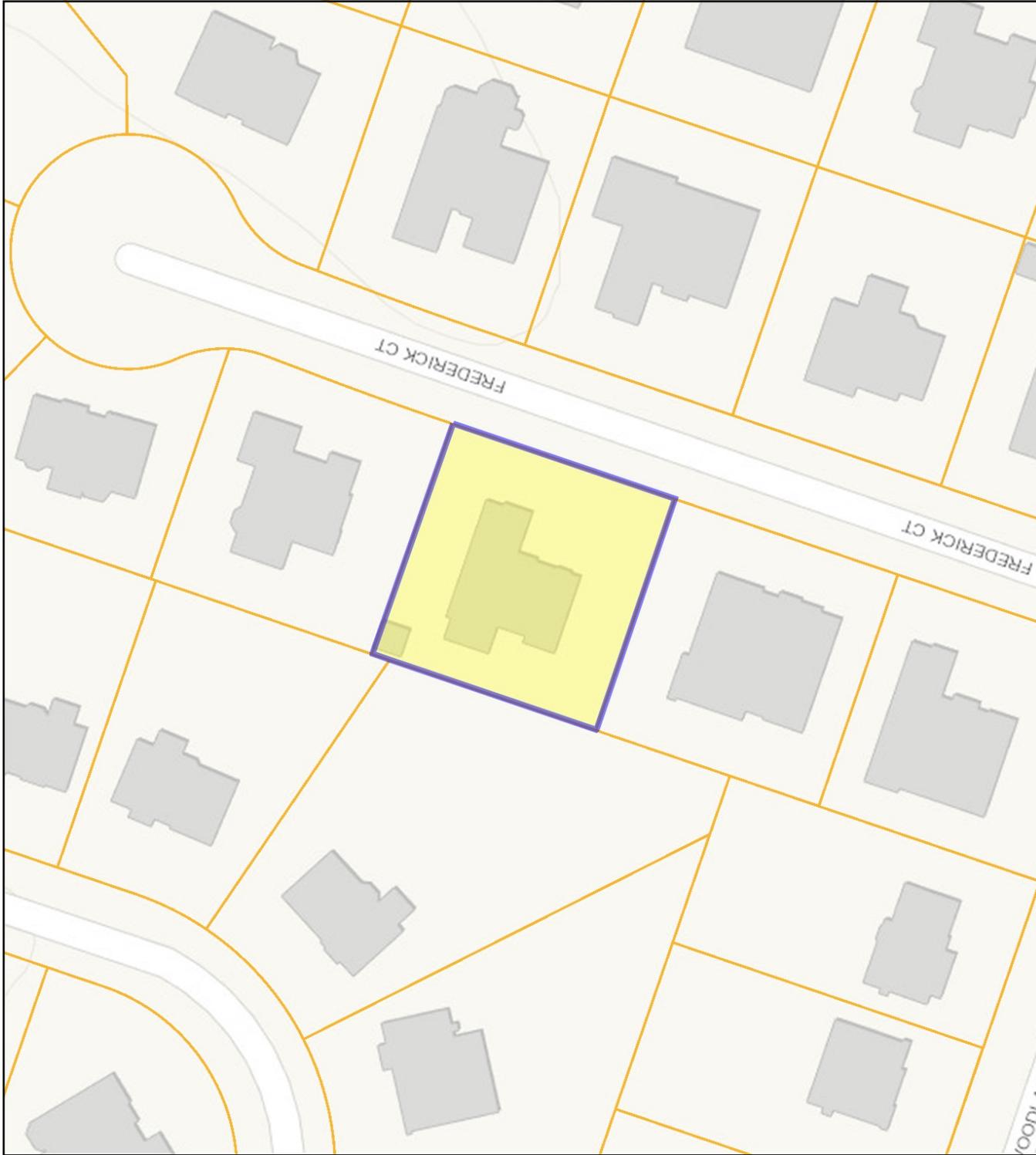
Real Estate Notes

Note
1-DB4809 PG243 23 LOTS \$2,024,000. INCLS 15F(2)-1-5,7-9,15,17-19,28,34-36,38-41 &46-48.DAJ
2-DB6306 PG372 ET AL IS IRIS B KNIGHT HAMILTON.DAJ
999-FENCE ADDED TAX YEAR 2008/09 BRB

City of Chesapeake, Virginia

Legend

- Parcels
- City Boundary



Parcel Number: 0156002000470

Date: 8/20/2020

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and City of Chesapeake is not responsible for its accuracy or how current it may be.

Staff Report

TO: Chesapeake Board of Zoning Appeals

FROM: Dale Ware, AICP, CZA

RE: Application # ZON-BZA-2020-00024
1808 Frederick Court

Hearing Date: September 24, 2020

Application # ZON-BZA-2020-00024

Thomas E & Susana I Herlihy, property owners, 1808 Frederick Court, requesting a variance from Section 6-802.A.3.b.ii of the Chesapeake Zoning Ordinance from the rear yard setback of 30 feet to 19 feet for a proposed 12' x 12' sunroom addition on an existing dwelling. The property is further identified as LOT 47 Weavers Spring; Real Estate Parcel No. 0156002000470 - Zoning: R-15S, residential.

Background Information:

The applicant is requesting permission to place a sunroom addition on an existing deck in the rear yard 19 feet from the rear property line instead of the required 30-foot rear yard setback in order to allow for the use of a sunroom addition on the property.

The applicant was advised of financial responsibility for advertising costs. This application was advertised in the Chesapeake Clipper section of the Virginian Pilot Newspaper and adjacent property owners were mailed notice of this request in accordance with Section 15.2-2204 of the Code of Virginia. A public notice sign was provided to the applicant to post on the property pursuant to the requirements of Section 20-702.E of the Chesapeake Zoning Ordinance.

Staff Analysis and Recommendation:

Sections 20-402.A & B of the Chesapeake Zoning Ordinance and Section 15.2 – 2309 of the Code of Virginia require certain standards be met for the Board of Zoning Appeals to grant a variance. These standards are listed at the end of this report as an excerpt from Section 20-402.A & B of the Zoning Ordinance.

To approve the variance the Board must find, conditioned upon the applicant having acquired the property in good faith, that the applicant's situation is unique due to the particular physical surroundings, size, shape, topographical condition or other extraordinary situation and not

shared by other properties in the same zoning district and vicinity, that the denial of the variance would result in undue hardship rather than an inconvenience, that the character of the district would not be changed as a result of the granting of the variance, and that the situation is not such of a general nature that would require a text amendment to the Zoning Ordinance to achieve compliance.

The variance application and background information provided by the applicant does not indicate an unusual situation and does not meet the criteria needed for the granting of a variance. The applicant has not shown that the denial of the variance would effectively prohibit or otherwise unreasonably restrict the current use of the property. Moreover, the applicant does not have a “hardship” as the applicant has the ability to use the property for an existing structure even though on a square lot.

There appears to be no evidence to show that the variance application, if granted by the Board, would amount to alleviating a hardship rather than an inconvenience as the applicant has areas on the property to add an addition without a variance. Staff believes the granting of the variance would change the character of the zoning district in which the property is located. With this information and along with the strict construct of state law and the Zoning Ordinance dealing with the requirements for the granting of the variance, staff recommends denial of this variance application.

EXCERPTS FROM CHESAPEAKE ZONING ORDINANCE

§ 6-800. - R-15s residential district.

§ 6-802. - Development standards.

A. General site standards. (The Chesapeake health department may require larger lots, widths and setbacks where deemed necessary for adequate sewage disposal.)

1. *Minimum lot size*, 15,000 square feet.

2. *Minimum lot width*, 90 feet. For lots used exclusively for storm water management, open space or conservation that comply with section 19-201.D.6 of this ordinance, the minimum lot width shall be 50 feet. The planning director or designee may approve a further reduction or waiver of minimum lot width equal to a reduction in minimum lot frontage approved in accordance with section 19-201.D.7 of this ordinance.

Minimum lot frontage, 72 feet. For lots used exclusively for storm water management, open space or conservation that comply with section 19-201.D.6 of this ordinance, the minimum lot frontage shall be 50 feet. The planning director or designee may approve a further reduction or waiver of minimum lot frontage in accordance with section 19-201.D.7 of this ordinance.

3. *Principal building setback (required yards).*

a. *From streets (front yards)*, 30 feet. (Setback from streets shall be measured from the reservation line established in accordance with the city's adopted Master Transportation Plan. Where a reservation line cannot be established under the provisions of the adopted Master Transportation Plan, setbacks shall be measured as provided for in [section 19-202](#). See section 19-202.C. for treatment of corner lots.)

b. *From lot lines.*

i. *Side yard.* There shall be a side yard along each side of each building and the sum of the widths of the two side yards shall not be less than 25 percent of the width of the lot. The minimum width of any such side yard shall be 10 percent of the width of the lot, provided that no such side yard shall be less than 10 feet in width, and provided further, that in any case where the total required width of the two side yards is more than 25 feet, one side of such yard need not be more than 10 feet in width.

ii. *Rear yard, 30 feet.*

4. *Maximum lot coverage of all buildings and roofed structures, 35 percent.*

5. *Maximum building height, 35 feet.* (Note: Under section 19-205, this maximum building height may be exceeded upon approval of a conditional use permit.)

B. *Off-street parking.* The minimum off-street parking requirements for each use in the R-15s district shall be determined from the standards set forth for the applicable parking group as defined in section 19-411 and from the "parking" column on the use schedule established under section 6-2102.

C. *Other development standards.* Other development standards pertaining to all residential districts are set out in section 6-2000 et seq. (Ord. No. 96-O-072, 5-21-96; Ord. No. 05-O-015, 3-8-05; Ord. No. 05-O-071, 6-21-05; Ord. No. 17-O-081, 11-21-17).

§20-402. Standards for variances

General standards; the Board of zoning appeals shall authorize a variance from the terms of this ordinance only when such authorization will not be contrary to the public interests and when, owing to special conditions, a literal enforcement of the provisions of this ordinance would unreasonably restrict the utilization of the property, provided that the spirit of the ordinance shall be observed and substantial justice done.

Action and specific findings required; the board shall either: approve, deny or approve with conditions the request for a variance.

A "Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and

1. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
2. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
3. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
4. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
5. The relief or remedy sought by the variance application is not available through a special exception process at the time of the filing of the variance application.

END OF REPORT