

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANTS:** Jason & Renee Frandson

**ASSESSMENT DISTRICT:** 1

**CASE NUMBER:** 2023-0159-V

**COUNCILMANIC DISTRICT:** 5

**HEARING DATE:** November 30, 2023

**PREPARED BY:** Joan A. Jenkins   
Planner II

**REQUEST**

The applicants are requesting a variance to allow stairs and a pathway with less buffer than required and with disturbance to slopes of 15% or greater on property located at 8 White Oak Court in Severna Park.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 17,840 square feet of land and is located with road frontage on the east side of White Oak Court, southeast of Hollyberry Road. The subject property is identified as lot 10 on Parcel 74 in Block 12 on Tax Map 31 in the West Severna Park subdivision. The front portion of the lot has been zoned R5 - Residential District with a portion of the rear of the lot zoned MA1 - Community Marina District since the adoption of comprehensive zoning of the Fifth Council District zoning maps effective January 29, 2012.

This is a nonwaterfront property which lies within the Chesapeake Bay Critical Area and is designated LDA - Limited Development Area. The site is currently improved with a two-story single-family detached dwelling and associated facilities.

**APPLICANTS' PROPOSAL**

The applicants propose to replace in-kind stairs and a pathway to access the rear of the lot.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. § 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 27.01.01 (B) (8) (ii) of COMAR states a buffer exists "to protect a stream tidal wetland tidal waters or terrestrial environment from human disturbance." § 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The limit of disturbance associated with the proposed stairs and pathway will include temporary disturbance for the limit of disturbance area and permanent disturbance of 185 square feet, necessitating a variance to this provision as shown on the site plan. Exact buffer disturbance will be determined at the time of

permit.

§ 17-8-201(a) of the Anne Arundel Subdivision and Development Code states that development in the LDA and RCA designated areas may not occur on slopes of 15% or greater unless development will facilitate stabilization of the slope, is necessary to allow connection to a public utility, or is to provide direct access to the shoreline. The proposed improvements will disturb 185 square feet of slopes of 15% or greater. Actual disturbance to be determined at permitting.

## **FINDINGS**

The property is a slightly wedge-shaped lot that is significantly encumbered by steep slopes and the expanded buffer.

The existing critical area lot coverage of the site is 2,106 square feet. The proposed 50 square foot addition results in post-construction lot coverage of 2,156 square feet, which is well below the 31.25% (5,575 square feet) allowed under § 17-8-402 (a) of the Code.

The **Health Department** commented that the property is served by public water and sewer facilities and has no objection to the request.

The **Development Division (Critical Area Team)** commented that they have no objection.

The **Critical Area Commission** commented that appropriate mitigation must be provided.

For the granting of a critical area variance, a determination must be made on the following:

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship or practical difficulty. In this case the presence of the expanded buffer makes in-kind replacement or reconfiguration impossible without variance relief. The amenity requested is reasonable, and therefore denial would create an unwarranted hardship.

A literal interpretation of the County's critical area program will deprive the applicants of rights that are commonly enjoyed by other properties in similar areas by denying the applicant the ability to in-kind replace their walkway and steps, which are failing after so many years. The granting of the variance will not confer on the applicants a special privilege that would be denied by COMAR, Title 27. This request is not a result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property. There is no evidence that the granting of the variances will adversely affect water quality or impact fish, wildlife or plant habitat and the proposal is in harmony with the general spirit and intent of the County's critical area program. The applicants have overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and have evaluated site planning alternatives.

With regard to the requirements for all variances:

The variances as proposed are considered the minimum necessary to afford relief by this Office. The proposal consists of replacing the improvements in-kind. The County Critical Area team and the

2023-0159-V

State Critical Area Commission have offered no objection to the proposal and as such, the replacement in-kind is considered to represent the minimum variance necessary by OPZ.

There is no evidence that the replacement of the existing structures will alter the essential character of the neighborhood, impair the use or development of adjacent property or be detrimental to the public welfare. The proposal will not reduce forest cover in the LDA and will not be contrary to acceptable clearing and replanting practices.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends ***approval*** of variances to construct the structures as shown on the site plan and the accompanying building plans.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



ANNE  
ARUNDEL  
COUNTY

MARYLAND  
DEPARTMENT OF HEALTH

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3 Harry S. Truman Parkway  
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**Tonii Gedin, RN, DNP**  
Health Officer

**MEMORANDUM**

TO: Sumner Handy, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health *bc*

DATE: 10/20/2023

RE: Jason G. Frandson  
8 White Oak Ct.  
Severna Park, MD 21146

CASE  
NUMBER: 2023-0159-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has received the above referenced variance request to allow an accessory structure (steps & pathway) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater. The Health Department offers the following comments:

The Health Department has reviewed the above referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Jasmine Baldwin at 410-222-1348.

cc: Sterling Seay

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Task Details OPZ Critical Area Team

<b>Assigned Date</b>	10/03/2023	<b>Due Date</b>	10/24/2023
<b>Assigned to</b>	Kelly Krinetz	<b>Assigned to Department</b>	OPZ Critical Area
<b>Current Status</b>	Complete w/ Comments	<b>Status Date</b>	10/03/2023
<b>Action By</b>	Kelly Krinetz	<b>Overtime</b>	No
<b>Comments</b>	No objection.		
<b>End Time</b>		<b>Start Time</b>	
		<b>Hours Spent</b>	0.0
<b>Billable</b>	No	<b>Action by Department</b>	OPZ Critical Area
<b>Time Tracking Start Date</b>		<b>Est. Completion Date</b>	
<b>In Possession Time (hrs)</b>	0.0	<input type="checkbox"/> <b>Display E-mail Address in ACA</b>	
<b>Estimated Hours</b>	0.0	<input checked="" type="checkbox"/> <b>Display Comment in ACA</b>	
<b>Comment Display in ACA</b>			
<input checked="" type="checkbox"/> All ACA Users			
<input checked="" type="checkbox"/> Record Creator			
<input checked="" type="checkbox"/> Licensed Professional			
<input checked="" type="checkbox"/> Contact			
<input checked="" type="checkbox"/> Owner			

Task Specific Information

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<b>Review Notes</b>	<b>Reviewer Name</b>	<b>Reviewer Phone Number</b>
<b>Reviewer Email</b>		



Jennifer Esposito -DNR- &lt;jennifer.esposito@maryland.gov&gt;

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**CAC Comments: Zwirlein 2023-0165-V, Grande 2023-0181-V, Frandson 2023-0159-V, Galloway 2023-0177-V, Mazer 2023-0182-V**

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Jennifer Esposito &lt;jennifer.esposito@maryland.gov&gt;

Mon, Oct 23, 2023 at 4:18 PM

To: Sadé Medina &lt;pzmedi22@aacounty.org&gt;

Good afternoon,

The Critical Area Commission has reviewed the following variances and we provide the following comments :

- 2023-165-V; Zwirlein (AA 339-23): The applicant is requesting an after-the-fact variance to disturb the Critical Area Buffer to perfect a 336-square foot shed approximately 63-feet from the mean high water line. The property is located within the Intensely Developed Area (IDA) and is mapped as Buffer Modified. While the unpermitted replacement shed is in the same location as the original shed, this office opposes the variance request as this proposal does not meet each and every one of the Critical Area variance standards such as unwarranted hardship and that this proposal minimizes impacts to water quality and habitats. On the contrary, the unpermitted shed is more than double the size of the original shed. The applicant currently has reasonable and significant use of the lot with the existing improvements which include a dwelling, porch, patio, an accessory structure, riparian access, driveway, and walkways. If the unpermitted and larger shed were to be denied, the applicant would still have reasonable and significant use of the entire lot. Moreover, the applicant had the ability to replace the shed in-kind without the need for a variance. Replacing the existing shed with a new shed of similar size would show minimization to water quality and habitat impact. However, if the Administrative Hearing Officer finds that the applicant satisfied the burden of proof and persuasion that each and every one of the Critical Area variance standards are met, then appropriate mitigation is required. This includes mitigation at a 4:1 ratio for the unpermitted Buffer impacts and at a 3:1 ratio for the square footage of Buffer impacts approved under this variance request. Additional mitigation is required at 1:1 ratio if canopy coverage was removed as a result of the shed replacement. Moreover, given that the property is located in the IDA, the Critical Area 10% pollutant removal requirements apply to this site.
- 2023-0181-V; Grande (AA 335-23): Appropriate mitigation is required. This includes mitigation at a 4:1 ratio for the unpermitted improvements, and at a 3:1 ratio should the variance request be approved. Additional mitigation is required at a 1:1 ratio for the square footage of tree canopy coverage removed. Further, we note that if the areas noted for gravel/pavement removal on the plan are located within the Critical Area Buffer or expanded

Buffer, then those areas should be stabilized and planted in natural vegetation.

Additionally, appropriate mitigation is required for the following variances:

- 2023-0159-V; Frandson (AA 338-23)
- 2023-0177-V; Galloway (AA 034-23)
- 2023-0182-V; Mazer (AA 336-23)

Thank you for the opportunity to provide comments. The above-comments have also been submitted through the County's online portal. Please feel free to contact me should you have any questions.



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[dnr.maryland.gov/criticalarea](http://dnr.maryland.gov/criticalarea)

### *Jennifer Esposito*

Critical Area Commission for the  
Chesapeake & Atlantic Coastal Bays

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Annapolis, MD 21401

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2023-0159-V



**Legend**

Foundation

Addressing



Parcels



Parcels - Annapolis City



**Notes**

Nearmap

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



THIS MAP IS NOT TO BE  
USED FOR NAVIGATION