

TALBOT COUNTY BOARD OF APPEALS
Appeal No. 16-1656

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Wye Oak Room, Talbot County Community Center, Route 50, 10028 Ocean Gateway, Easton, Maryland, beginning at 7:00 p.m., November 21, 2016, on the application of **GEOFFREY A. and JODI KIDD TURNER** (Applicants). The Applicants are requesting a variance to exceed the 15% lot coverage threshold by 1,966 square feet resulting in 8,569 square feet (19.5%) total lot coverage. The proposed lot coverage includes 390 square feet of new improvements, 8,179 square feet of existing improvements, and removal of 1,750 square feet of existing improvements. The 390 square feet of new construction includes additions to the residence, porch, driveway and sidewalk. The property is located at 7663 Tred Avon Circle, Easton, Maryland 21601 in the Rural Residential (RR) zone. The Applicants own the property. The request is made in accordance with Chapter 190 Zoning, Article VI, §190-136 and Article IX, §190-182 of the *Talbot County Code (Code)*.

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, John Sewell, Margaret Young, and Louis Dorsey, Jr. The Applicant, Geoffrey Turner, testified in support of his application. Jon E. Braithwaite, Ateliea II Ltd., Architects, 11 South Aurora Street, Easton, Maryland 21601, also testified in support of the application. Elisa Deflaux, Environmental Planner, attended the hearing on behalf of Talbot County. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for critical area variance with Attachment A.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Appeals Notice of Public Hearing.
4. Certificate of publication of the Notice of Public Hearing from the *Star-Democrat*.

5. Notice of hearing with a list of nearby property owners attached.
6. Copy of critical area variance requirements from the *Code* with the written responses of the Applicants to each applicable warrant attached as Exhibit B.
7. Staff Report dated October 24, 2016.
8. Sign maintenance agreement.
9. Site Plan by Atelier 11, received October 4, 2016.
10. Elevation Plans.
11. Critical Area Commission comments dated November 10, 2016.
12. Authorization letter from the Applicants.
13. Independent Procedure Disclosure and Acknowledgement Form.
14. Aerial photograph.
15. Critical Area Lot Coverage Computation Worksheets (two pages).
16. Photographs from the staff site visit taken on October 18, 2016.

Mr. Braithwaite presented the case for the Applicants. He said that the variance application is really two parts. The first is to request approval for the existing lot coverage that exceeds the maximum allowed. That lot coverage existed when the Applicants purchased the property in 2014. They have not made any exterior improvements. The second part is to request approval for their proposed renovation to their home which will result in an overall reduction in the current lot coverage but will allow them to renovate their home to make it much more usable for them.

They propose to increase the living area of the home by extending it partly over an existing impervious deck area. The remaining deck will be changed to become a pervious deck. Most of the coverage reduction will result from reconfiguring their driveway.

In response to questions from Board members Mr. Braithwaite conceded that the Applicants were not requesting retroactive approval for the lot coverage as it currently exists but for approval of the proposed renovations which will reduce the existing lot coverage to an amount that remains higher than the 15 percent coverage limit, namely 19.5 percent coverage.

Mr. Braithwaite said that they will address storm water runoff as a part of their design for the property. He also said that the Applicants will have to comply with County and State mitigation requirements.

The Staff report indicates that a prior owner had received a permit for improvements to the property which would have limited coverage to 15 percent. However, a later permit allowed that owner to increase the lot coverage without a variance.

In response to questions from the Board the Applicants submitted a copy of the proposed floor plan of their home. It was admitted as Applicants' Exhibit No. 1.

The Board then considered the application. After some discussion the Board, upon motion made and seconded, approved the requested variances, subject to certain conditions, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of the ordinance result in unwarranted hardship to the property owner. The Applicants are proposing only minor changes to the existing house to make it more livable. In exchange they are proposing to remove a significant amount of existing impervious surface.
3. A literal interpretation of the ordinance will deprive the property owner of rights commonly enjoyed by other property owners in the same zone. The Applicants

purchased their home without knowledge that a previous owner had made improvements exceeding the allowable lot coverage. As a result the Applicants are unable to make even minor adjustments to their home to make it more livable without a variance. Their proposal is an effort to reduce the overall lot coverage but still make some minor changes to the home.

4. The granting of the variance will not confer upon the property owners any special privilege that would be denied by the ordinance to other owners of lands or structures within the same zoning district. The footprint of the proposed replacement dwelling is substantially the same as the existing dwelling. Given similar circumstances other property owners would likely have the same privilege.
5. The variance request is not based on conditions or circumstances which are the result of actions by the Applicants, including the commencement of development activity before an application for variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
6. The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program. The requested variances will have little, if any, adverse environmental impact. Given the reduction in lot coverage proposed by the Applicants the environmental impact may be positive.
7. The variance does not exceed the minimum adjustment necessary to relieve the unwarranted hardship.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicants, **GEOFFREY A. and JODI KIDD TURNER** (Appeal No. 16-1656) are **GRANTED** the requested critical area variance consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

1. The Applicants must remove the lot coverage shown on the site plan to be removed.
2. The Applicants will not be permitted any further lot coverage in the future.
3. The Applicants must provide and comply with an adequate design to limit storm water runoff from their property.
4. The Applicants shall make applications to and follow all of the rules procedures, and construction timelines as outlined by the Department of Permits and Inspections regarding new construction.
5. The Applicants shall commence construction on the proposed improvements within eighteen (18) months from the date of this Decision.

GIVEN OVER OUR HANDS, this 23rd day of December, 2016.


TALBOT COUNTY BOARD OF APPEALS



Paul Shortall, Jr., Chairman



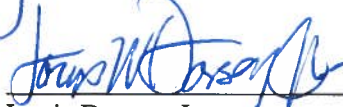
Phillip Jones, Vice Chairman



John Sewell



Margaret Young



Louis Dorsey, Jr.