

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No 17-1667

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals (the Board) at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m. June 5, 2017 on the Application of **SAFE HARBOUR CONSTRUCTION, LLC**, (Applicant). The Applicant is seeking a variance of the required fifty foot (50') front yard setback to twenty-eight feet (28') for the purpose of constructing a Model Home with handicap accessible amenities. The building's first floor will be used as professional offices; with a single family apartment on the second floor. The request is made in accordance with Chapter 190, Zoning, Article II, §190-15 and Article IX, §190-182 of the *Talbot County Code*, (the *Code*). The property is located at 947 Talbot Street, Saint Michaels, Maryland 21663 in the General Commercial (GC) Zone. The property owner is William Poore, III and the property is shown on Tax Map 201, Parcel 1305.

Present at the hearing for the Board of Appeals were: Paul Shortall, Chairman, Phillip Jones, Vice-Chairman; members John Sewell, Louis Dorsey, Jr. and alternate member Jeffrey Adelman. Anne C. Ogletree served as attorney for the Board of Appeals.

Mr. Shortall opened the meeting, asking if all Board members had visited the site. After receiving affirmative responses, he requested that those persons who would be testifying stand and be sworn. Dawn Lednum, contract purchaser and only member of the public in attendance was sworn. The following exhibits were admitted into evidence:

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| Exhibit 1 | Application for Non Critical Area Variance; |
| Exhibit 2 | Tax Map of subject property; |
| Exhibit 3 | Notice of Public Hearing for Star Democrat advertising; |
| Exhibit 4 | Newspaper confirmation; |
| Exhibit 5 | Notice of Public Hearing and Adjacent Property Owner list; |
| Exhibit 6 | Non-Critical Area Variance standards; |
| Exhibit 7 | Staff Memo prepared by Brennan Tarleton, dated 5/22/2017 |
| Exhibit 8 | Sign maintenance agreement; |
| Exhibit 9 | Site Plan prepared by Davis, Bowen & Friedel, Inc.; |
| Exhibit 10 | Existing floor plan of existing structure; |
| Exhibit 11 | Proposed elevation and floor plan; |
| Exhibit 12 | Email from State Highway, David Redman dated 6/1/2017; |
| Exhibit 13 | Authorization Letter from William Poore, III dated 4/20/2017; |
| Exhibit 14 | Independent Procedures Disclosure and Acknowledgment Form; |

- Exhibit 15 Aerial photo;
- Exhibit 16 Photos taken at site visit on 4/17/2017 by Chris Corkell;
- Exhibit 17 Applicant's photos of existing and adjacent dwellings.

The Chairman recognized Ms. Lednum, 10482 Bayside Drive, Claiborne, MD 21624, agent of the property owner. Ms. Lednum explained that she was a principal of the local Champion Realty agency as well as Safe Harbour Construction LLC. As a real estate agent she is aware that the county population is aging and more seniors are having to relocate when their homes become too much for them to maintain, or become not truly accessible for their needs and condition. She explained that the aging community is generally under served in housing and that there are relatively few handicapped accessible homes available, and the very few that are available have a certain unattractive "look" that potential buyers dislike. The model home the Applicant proposes has all of the amenities that an aging owner would want, but, as one can see from the floor plans, the structure will not have that distinctive "look" that seems to discourage buyers.

The property at 947 Talbot Street is on the small side, but will work nicely if the variance is granted. Ms. Lednum requested that the Board consider the Applicant's written responses to the non-critical area variance standards (Exhibit 6) as a part of her testimony. The structure will allow "aging in place" amenities, i.e. wider stairs to permit the addition of a chair lift; a handicapped bathroom with a five foot (5') turning radius to allow easy access for a wheelchair and a front porch access that can accommodate a chair lift as well. The second floor of the model will be used as an apartment while the ground floor will be occupied as a show room and office. The model will be open from nine to five (9-5) seven (7) days a week.

The structure itself is a one and one half (1^{1/2}) story modular building. It will have an installed chair lift. All interior and exterior doors will be thirty-six inches (36") in width.

The new building will actually be set back further from the road than the existing structure. In response to a question from a Board member, Ms. Lednum clarified that the existing shed and some existing impervious surfaces were to be removed. She noted that the existing shed encroaches into the setback and is in poor condition. It will be removed rather than relocated.

Ms. Lednum also commented that the Applicant would retro-fit existing homes to add handicapped amenities if requested.

Mr. Shortall confirmed that the Board would consider the written answers to the non-critical variance standards as a part of the Applicant's testimony. There being no further testimony and no other members of the public present, the evidentiary portion of the hearing concluded.

The Board then made the following findings of fact and conclusions of law:

1. This property is unique as it is very small, and the existing structures predate zoning. Literal compliance with the setback restrictions of the *Code* will prevent the property owner from adding an attractive new building once the existing dwelling is demolished. The lot is less than a quarter (1/4) acre in size and is angled making the placement of a new structure difficult.
2. The need for the variance was not created by the Applicant, but by the imposition of a setback established by the zoning ordinance on an existing non-conforming property.
3. The Applicant is replacing the dwelling to use the replacement structure as a showroom and office with an accessory apartment. The Applicant wishes to provide a showroom for handicapped amenities available to the county's aging population. The replacement will make it easier to show members of the public the types of amenities available. Greater profitability is not the reason for the variance.
4. The new structure will serve the aging population, and have no negative effect on public interests. It will improve the view from neighboring properties.
5. The Applicant is asking to for a variance of the front setback to allow the new building to be parallel to the street. By adjusting the building footprint in this manner the building will actually be farther from the street than the existing dwelling. The Applicant can then meet all other setbacks and all off street parking requirements.
6. The proposed building is modest in size. Granting the variance will allow the Applicant to meet all other setbacks and parking requirements. It is the minimum necessary to provide relief.

There being no further discussion, Mr. Shortall asked if there was a motion. Mr. Sewell moved that the Applicant be granted the requested variance with the following conditions: (1) the Applicant shall remove the existing shed; (2) the Applicant shall make application to and follow all of the rules, procedures, and construction timelines as outlined by the Office of Permits and Inspections; (3) the Applicant shall make application to and seek waivers from the Planning Commission from certain standards of the Gateway Overlay District; (4) The Applicant shall commence construction within eighteen (18) months from the date of the Board of Appeals approval.

Mr. Adelman seconded the motion. There was no additional discussion and the Chairman called for a vote. The motion passed 5-0

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

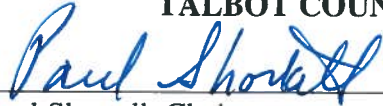
RESOLVED, that the Applicant, **SAFE HARBOUR CONSTRUCTION, LLC**, is hereby **GRANTED** the variance to reduce the required front setback from fifty feet (50') to twenty-eight feet (28') to permit the construction a new model home consistent with the evidence presented to the Board Appeals.

The approval is subject, however, to the following conditions:


- (1) The Applicant shall remove the existing shed;
- (2) The Applicant shall make application to and follow all of the rules, procedures, and construction timelines as outlined by the Office of Permits and Inspections;
- (3) The Applicant shall make application to and seek waivers from the Planning Commission from certain standards of the Gateway Overlay District;
- (4) The Applicant shall commence construction within eighteen (18) months from the date of the Board of Appeals approval.

GIVEN OVER OUR HANDS, this 14th day of July, 2017.


TALBOT COUNTY BOARD OF APPEALS



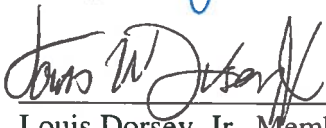
Paul Shortall, Chairman




Phillip Jones, Vice-Chairman



John Sewell, Member



Louis Dorsey, Jr., Member



Jeffrey Adelman, Alternate Member