

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 18-1675

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals (the Board) in the Bradley Meeting Room, Court House, South Wing, 11 N. Washington Street, Easton Maryland, beginning at 6:30 p.m., March 12, 2018 on the Application of PASQUALE and DEBORAH DI IULIO, (the Applicants). The Applicants are requesting a variance of the required one hundred fifty foot (150') setback from MD Route 333 to one hundred twenty six feet, one inch (126-1") to construct a two hundred eighty four (284) square foot shed. The application is made in accordance with Chapter 190, Zoning, Article V, § 190-114 and Article IX § 190-182 of the *Talbot County Code* (the *Code*). The property is located at 27005 Oxford Road, (Md. Rt. 333), Oxford, MD 21654 in the Rural Conservation (RC) Zone. The property owners are Pasquale and Deborah DiIulio. The property is shown on Tax Map 53 Grid 4, Parcel 60.

Present at the hearing for the Board of Appeals were: Paul Shortall, Jr., Chairman, Phillip Jones, Vice-Chairman, and members John Sewell, Louis Dorsey Jr. and Frank Cavanaugh. Anne C. Ogletree served as attorney for the Board of Appeals. Brent Tarleton, Planner I and Miguel Salinas, Assistant Planning Director, were in attendance.

The following exhibits were entered into evidence:

1. Application for Non-Critical Area Variance;
2. Portion of Talbot County Tax Map 53;
3. Notice of Public Hearing;
4. Certificate of Publication in the Star Democrat;
5. List of Adjoining Property Owners with Public Notice Attached;
6. Non-Critical Area Variance Standards and Responses;
7. Non-Critical Area Variance Staff Report;
8. Sign Maintenance Agreement;
9. Independent Procedures Disclosure and Acknowledgment Form;
10. Aerial Photograph;
11. Critical Area Lot Coverage Computation Worksheet;
- 12A. Decision Talbot County Board of Appeals Appeal No. 1454;

- 12B. Photograph taken By C. Corkell on 2/1/18;
13. Site Plan;
14. Floor & Elevation Plan;
15. Email from D. Redman, State Highway Administration.

Mr. Shortall asked the members if all had visited the site. After receiving affirmative responses, he requested all those who were to testify to stand and be sworn. Pasquale and Deborah DiIulio, the applicants, took the oath.

The Chairman invited the Applicants to explain their request to the Board. Mr. DiIulio testified that the Applicants had purchased the property in its current condition when they moved to the county. The property is small, about .6 acre, and he understood that a variance from the highway setback had been required to construct the existing residence on the lot. There is currently no outside storage, and the crawlspace is too small and low to be utilized for storage. The lawn equipment is currently stored under a tarp. The Applicants wish to construct a shed for equipment storage. He opined that the proposed location is actually the best spot on the property for the shed, as the shed would be screened from view by the existing residence, a privacy fence and plantings at the rear of the lot. He noted that as one looks at the property from Rt. 333 the entire right side of the property is taken up by the septic system, (see exhibit 13.)

Mrs. DiIulio added that the shed would be constructed by the same firm that had built the residence, would blend in nicely and would not violate any setbacks, as it is less than three hundred (300) square feet in size. She understood that the side and rear setbacks would be met as they could be halved for structures of less than three hundred (300) square feet. Mr. Tarleton confirmed her understanding.

The Chairman commented that the Applicants had fully answered the Non-Critical Variance Standards, and the Board would consider those responses as well as the testimony presented at the hearing.

There being no further public comment, the Chairman asked if the Board members had comments or questions.

Mr. Jones stated that the problem in this case was not the actions of the Applicant, but the required state highway setback. He observed that this residence had been built in the same location as a former residence, and that structures on the lot could not meet the

front setback requirement either then or now. State Highway did not have an issue with the addition of the shed. Aesthetically the proposed location was probably the best available given that the septic system took up the whole side yard. The shed would not be visible from the road.

Mr. Cavanaugh concurred noting that he believed the proposed shed was situated in the ideal location on the property as it would be out of sight. He commented that there was no way to meet the state highway setback on this property, and felt the variance was justified.

Based on the testimony, the record, and the written responses submitted by the Applicants, the Board makes the following findings of fact and conclusions of law:

1. The Applicants have submitted a written Application for a Non-Critical Area variance (Exhibit 1),
2. Notice of the public hearing has been mailed to adjoining landowners and the public hearing has been properly advertised. (Exhibits 2,3,4,5 and 8).
3. The property subject to the application fronts on the Oxford Road, Md. Rt. 333, and is subject to the one hundred fifty foot (150') setback from arterial highways established by *Code*, § 190-114(B).
4. The subject property is unique, as almost the entire property is within the setback, and any structure placed on the property will require a variance.
5. The Applicants did not cause the need for a variance. The size of the property and the later application of the zoning ordinance to a pre-existing lot cause the need for a variance for any structure to be built on the property.
6. The Applicants are not seeking the variance to enjoy greater profitability or because they lack knowledge of the restrictions imposed by the ordinance; rather they seek to add a shed as an accessory structure to provide a reasonable accommodation for personal property and yard machinery that would otherwise be stored outside under a tarp.
7. The variance, if granted, will not be contrary to the public interest. The parcel is unique as the site plan, Exhibit 13, shows. There is no other location on the property where the proposed structure can be placed without being more visible. The side yard opposite the driveway is occupied by the septic system;

the residence occupies the center of the property, and the proposed location, to the rear of the residence and screened by the residence and by the privacy fence (Exhibit 12B and 13) is best suited to prevent the shed from becoming a concern to neighbors. The Board notes the absence of opposition or concerns raised by neighbors who might possibly be affected.

8. The size of the proposed shed, two hundred eighty-four (284) square feet is reasonable. The addition of the shed will not increase lot coverage to greater than 15% (Exhibit 7 and 11). The Board recognizes that the proposed structure is smaller than three hundred (300) square feet. As such, the side and rear setbacks are halved, so the proposed shed meets all setbacks other than that from the arterial highway. (Staff Report, Exhibit 7 at 4.) The shed has been designed to blend in with the existing home. It will be located so that it will be largely invisible to motorists and neighbors. The proposed shed is the smallest that will allow storage for the lawn and garden equipment needed to maintain the property.

Mr. Shortall called for a vote on the application. Mr. Jones made a motion that the variance be approved. The motion was seconded by Mr. Sewell. The vote on the motion was unanimous, 5-0.

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

RESOLVED, that Pasquale and Deborah Dilulio be GRANTED the requested variance consistent with the evidence presented to the Board of Appeals, and subject to the following conditions contained in the staff report, Exhibit 7:

1. The Applicant shall make an application to the Office of Permits and Inspections, and shall follow all rules, procedures and construction timelines as outlined regarding new construction.

2. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Board's written decision. .

GIVEN OVER OUR HANDS, this 20th day of March, 2018.

TALBOT COUNTY BOARD OF APPEALS



Paul Shortall, Jr., Chairman



Phillip Jones, Vice Chairman



John Sewell, Member

Unavailable for Signature

Louis Dorsey, Jr., Member



Frank Cavanaugh, Member